

# State Statutes Explicitly Related to Sexually Transmitted Diseases in the United States, 2013

Prepared by:

Public Health Law Research, Temple University

In collaboration with:

Centers for Disease Control and Prevention, Division of STD Prevention

June 5, 2014

**Disclaimer:** The information in this document does not represent the official legal positions of the U.S. Department of Health and Human Services (HHS), the Centers for Disease Control and Prevention/HHS, or state and local governments, and is not meant to provide specific legal advice. Users of this document should consult with their official state and local legal counsel for specific legal advice and guidance.

## Executive Summary

Using the WestlawNext legal research database, a search was conducted for statutes that explicitly relate to sexually transmitted disease across all fifty states and the District of Columbia. The search terms were constructed to return statutes that contain any variant of the root words “sexual,” “transmit,” and “disease” within ten words of one another, or any of the following terms: syphilis, chlamydia, gonorrhea, herpes, venereal disease, human papillomavirus, trichomoniasis, cervical cancer, genital warts, or bacterial vaginosis.

Statutes were selected for inclusion if they included one or more of our search terms and did not solely relate to human immunodeficiency virus (HIV), acquired immunodeficiency syndrome (AIDS), or primary or secondary education (i.e., sexual education curricula in schools). Statutes were compiled and organized by state.

This analysis only includes state statutes (laws passed by a state legislature), and does not include potentially relevant laws from other levels of government (i.e., federal or local) nor other sources of law (i.e., judicial case law and administrative agency rules and regulations). Thus, this analysis is not meant to be inclusive of all potential laws related to sexually transmitted disease in a particular jurisdiction. Statutes that were identified are presented by state.

## TABLE OF CONTENTS

ALABAMA .....	16
AL ST § 22-13-51. Establishment and purpose of programs .....	16
AL ST § 22-17-8. Service by persons having skin or venereal disease .....	16
AL ST § 22-6-11. Breast and cervical cancer prevention and treatment .....	16
AL ST § 15-23-100. Definitions. ....	17
AL ST § 15-23-101. Motion to order person charged to be tested for... ..	18
AL ST § 15-23-102. Order to submit to testing; designation of... ..	18
AL ST § 22-11A-2. Persons responsible to report diseases; contents of.....	18
AL ST § 22-11A-13. Sexually transmitted diseases.....	19
AL ST § 22-11A-14. Cases of sexually transmitted diseases to be... ..	19
AL ST § 22-11A-16. Serologic or other biologic sample required to be... ..	19
AL ST § 22-11A-17. Testing of correctional facility inmates for sexually... ..	20
AL ST § 22-11A-18. Isolation of person believed to have sexually.....	20
AL ST § 22-11A-19. Minor 12 years or older may consent to medical.....	21
AL ST § 22-11A-20. Physicians to instruct persons on prevention and... ..	21
AL ST § 22-11A-21. Penalties for treating or preparing medicine.....	21
AL ST § 22-11A-22. Medical records of persons infected with sexually... ..	21
ALASKA .....	22
AK ST § 08.65.140. Required practices.....	22
AK ST § 18.15.150. Taking of blood sample .....	23
AK ST § 18.15.160. Test for syphilis.....	23
AK ST § 18.15.170. Report of birth.....	23
AK ST § 18.15.270. Testing procedures.....	23
AK ST § 18.15.310. Testing; test results .....	23
AK ST § 21.42.395. Coverage for prostate and cervical cancer detection .....	25
AK ST § 23.35.150. Definitions .....	25
ARIZONA.....	27
AZ ST § 13-1415. Human immunodeficiency virus and sexually.....	27
AZ ST § 36-119. Breast and cervical cancer screening and diagnostic.....	28
AZ ST § 36-2901.05. Breast and cervical cancer treatment; additional.....	28
ARKANSAS .....	30

AR ST § 17-98-302. Examinations; admission .....	30
AR ST § 20-16-501. Notification required .....	30
AR ST § 20-16-507. Pregnant women--Examination requirements.....	31
AR ST § 20-9-1103. Cervical Cancer Task Force--Powers and duties .....	32
CALIFORNIA.....	33
CA HLTH & S § 120500. "Venereal diseases" defined .....	33
CA HLTH & S § 120582. Diagnosis of sexually transmitted infection;.....	33
CA HLTH & S § 120860. Program of prevention, education, testing and... ..	33
CA HLTH & S § 121025. Personally identifying information confidentiality;...	34
CA HLTH & S § 1367.66. Annual cervical cancer screening test coverage .....	36
CA WEL & INST § 14503.5. AIDS information and referral services.....	36
CA HLTH & S § 1644.5. Transplantation of tissues; screening tests for.....	37
COLORADO .....	41
CO ST § 17-1-115.5. Prison sexual assault prevention program.....	41
CO ST § 25-1-122. Named reporting of certain diseases and... ..	41
CO ST § 25-4-201. Pregnant woman to take blood test .....	43
CO ST § 25-4-2502. Definitions .....	44
CO ST § 25-4-2503. Cervical cancer immunization program--rules.....	44
CO ST § 25-4-401. Sexually transmitted infections—definitions .....	44
CO ST § 25-4-402. Sexually transmitted infections reported--physician's... ..	45
CO ST § 25-4-404. Examination of suspected cases.....	45
CO ST § 25-4-405. Examination of persons confined.....	46
CO ST § 25-4-406. Rules--provision of services.....	46
CO ST § 25-4-408. Distribution of information .....	46
CONNECTICUT.....	47
CT ST § 17b-278b. Medical assistance for breast and cervical cancer.....	47
CT ST § 19a-216. Examination or treatment of minor for venereal... ..	47
CT ST § 19a-216a. Examination and treatment of persons at... ..	48
CT ST § 19a-266. Breast and cervical cancer early detection and... ..	49
CT ST § 20-14e. Dispensing of drugs. Prescribing and dispensing of oral.....	50
CT ST § 4-106. Treatment of venereal diseases in hospitals receiving state aid .....	51
CT ST § 54-102a. Venereal examination and HIV testing of persons.....	51

DISTRICT OF COLUMBIA..... 52

    DC CODE § 7-1651.01. Definitions. .... 52

    DC CODE § 7-1651.02. Human papillomavirus public education campaign. .... 52

    DC CODE § 7-1651.04. Human papillomavirus vaccination program. .... 52

DELAWARE ..... 54

    DE ST TI 16 § 701. Definitions ..... 54

    DE ST TI 16 § 702. Reporting of STDs ..... 54

    DE ST TI 16 § 703. Examination, investigation and treatment of suspected persons ..... 55

    DE ST TI 16 § 708. Prenatal standard tests for syphilis, gonorrhea, chlamydia..... 55

    DE ST TI 16 § 711. Confidentiality of records and information..... 56

    DE ST TI 16 § 712. Custodian of records ..... 57

    DE ST TI 11 § 9023. Payment for forensic medical examinations for victims..... 57

FLORIDA ..... 59

    FL ST § 381.003. Communicable disease and AIDS prevention and control..... 59

    FL ST § 381.004. HIV testing ..... 60

    FL ST § 384.23. Definitions ..... 70

    FL ST § 384.24. Unlawful acts..... 70

    FL ST § 384.25. Reporting required..... 70

    FL ST § 384.28. Hospitalization, placement, and residential isolation..... 71

    FL ST § 384.287. Screening for sexually transmissible disease ..... 72

    FL ST § 796.08. Screening for HIV and sexually transmissible diseases;..... 73

GEORGIA ..... 75

    GA ST § 16-6-13.1. Testing for sexually transmitted diseases of..... 75

    GA ST § 31-17-1. Certain diseases declared contagious ..... 75

HAWAII..... 76

    HI ST § 321-111. Sexually transmitted disease prevention program..... 76

    HI ST § 325-52. Serologic tests; reports ..... 76

    HI ST § 211F-5.5. Cancer detection development revolving fund;... ..... 76

    HI ST § 453-51. Definitions ..... 76

IDAHO..... 78

    ID ST § 39-1001. Serological test of pregnant or recently delivered women ..... 78

    ID ST § 39-601. Venereal diseases enumerated ..... 78

ID ST § 39-603. Examination, treatment, and quarantine--Repression of...	78
ID ST § 39-604. Confined and imprisoned persons--Examination, treatment.....	78
ID ST § 39-605. Rules for carrying out law .....	80
ID ST § 39-607. Penalties for violations.....	80
ID ST § 54-1733. Validity of prescription drug orders.....	80
ILLINOIS.....	82
IL ST CH 410 § 325/3. Definitions.....	82
IL ST CH 410 § 70/5. Minimum requirements for hospitals providing hospital.....	82
INDIANA .....	84
IN ST 16-41-13. 1 Notice requirement .....	84
IN ST 16-41-14-5. Disease testing; reports.....	84
IN ST 16-41-15-2. Standard serological test for syphilis .....	85
IN ST 16-41-8-5. Potentially disease transmitting offenses .....	85
IN ST 20-34-4-3. Parental notification of required immunization; exceptions.....	88
IN ST 20-34-4-5.5. Human papillomavirus (HPV) immunization; receipt of... ..	88
IN ST 31-11-4-5. Distribution of information concerning dangerous... ..	89
IOWA.....	90
IA ST § 135.11. Duties of department.....	90
IA ST § 139A.2. Definitions .....	93
IA ST § 139A.33. Partner notification program .....	95
IA ST § 139A.41. Chlamydia and gonorrhea treatment .....	96
IA ST § 141A.7. Test results--counseling--application for services .....	96
IA ST § 514C.23. Human papilloma virus vaccinations--coverage .....	97
KANSAS.....	98
No relevant statutes found .....	98
KENTUCKY .....	99
KY ST § 211.180. Functions of cabinet in the regulation of certain health.....	99
KY ST § 214.410. Definitions.....	100
KY ST § 214.420. Records declared confidential; application .....	100
LOUISIANA.....	101
LA R.S. 40:1062. Infection of others prohibited.....	101
LA R.S. 40:1299.141. Definitions .....	101

LA R.S. 17:170.3. Immunization information; human papillomavirus .....	101
LA R.S. 40:29. State health laboratories; fee schedule .....	102
LA R.S. 15:739. Inmate blood and saliva testing .....	111
LA C.Cr.P. Art. 221. Blood and saliva testing .....	112
LA C.Cr.P. Art. 222. Blood and saliva testing; expedited, nonincriminating... ..	113
LA C.Cr.P. Art. 499. AIDS testing of the accused .....	114
MAINE .....	115
ME ST T. 22 § 1233. Blood specimens accompanied by information blank; report .....	115
ME ST T. 22 § 1241. Definitions .....	115
ME ST T. 22 § 1242. Expedited partner therapy .....	115
MARYLAND.....	118
MD CRIM LAW § 10-101. Definitions .....	118
MD CRIM LAW § 10-102. Venereal disease--Advertising cure .....	118
MD CRIM LAW § 10-103. Venereal disease--Sale of remedy.....	119
MD INSURANCE § 15-829. Chlamydia and human papilloma virus screening tests.....	120
MD HEALTH GEN § 18-214.1. Expedited Partner Therapy Pilot Program; Baltimore City .....	121
MASSACHUSETTS .....	122
MA ST 111 § 117. Establishment and maintenance of clinics for treatment of... ..	122
MA ST 111 § 118. Discrimination against treatment of venereal diseases .....	122
MA ST 111 § 119. Records pertaining to venereal diseases .....	122
MA ST 112 § 12. Disclosure of information relative to venereal disease by... ..	122
MA ST 111 § 121. Treatment of venereal diseases or pulmonary tuberculosis... ..	122
MA ST 111 § 121B. Prescription and distribution of drugs to treat... ..	123
MA ST 127 § 16. Physical examination of inmates; communicable diseases .....	123
MA ST 111 § 111. Notice to board of health that persons infected with... ..	123
MA ST 111 § 6. Power to define diseases deemed dangerous to public health;... ..	124
MINNESOTA .....	125
MN ST § 121A.23. Programs to prevent and reduce the risks of sexually.....	125
MN ST § 144.4172. Definitions.....	125
MN ST § 145.928. Eliminating health disparities .....	127
MN ST § 147D.05. Professional conduct .....	130
MN ST § 611A.20. Notice of risk of sexually transmitted disease .....	131

MISSISSIPPI.....	132
MS ST § 41-23-27. Infectious sexually transmitted diseases .....	132
MS ST § 41-23-29. Examinations, infectious sexually transmitted disease .....	132
MS ST § 41-23-30. Testing, treatment, sexually transmitted disease .....	132
MS ST § 41-3-13. WISEWOMAN and WISEMAN Pilot Programs .....	132
MS ST § 41-41-13. Treating minor for venereal disease .....	133
MS ST § 41-79-53. Teen pregnancy prevention programs .....	133
MISSOURI .....	135
MO ST 167.182. Informational brochure relating to human papillomavirus... ..	135
MO ST 191.677. Prohibited acts, criminal penalties .....	135
MO ST 566.135. Defendant may be tested for various sexually transmitted... ..	136
MONTANA.....	137
MT ST 46-18-256. Sexually transmitted disease testing--test procedure.....	137
MT ST 50-18-101. Sexually transmitted diseases defined .....	137
MT ST 50-18-102. Powers and duties of department.....	137
MT ST 50-18-103. Cooperation with federal agencies--federal funds.....	137
MT ST 50-18-104. Serological test for syphilis .....	138
MT ST 50-18-107. Powers and duties of health officers.....	138
MT ST 50-18-108. Examination and treatment of prisoners .....	138
MT ST 50-18-109. Permissible release of information concerning infected... ..	138
MT ST 50-18-110. Unlawful dispensing of drugs for cure or alleviation of... ..	139
MT ST 50-18-113. Violation a misdemeanor.....	139
MT ST 50-19-105. Report of positive test results .....	139
NEBRASKA .....	140
NE ST § 42-102. Minimum age; affliction with venereal disease, disqualification .....	140
NE ST § 71-502.01. Sexually transmitted diseases; enumerated.....	140
NE ST § 71-502.02. Sexually transmitted diseases; rules and regulations .....	140
NE ST § 71-502.03. Pregnant women; subject to syphilis test; fee .....	140
NE ST § 71-504. Sexually transmitted diseases; minors; treatment without... ..	140
NE ST § 71-7003.01. Department; funding; powers .....	141
NE ST § 71-7010. Breast and Cervical Cancer Cash Fund; created; use;.....	141
NE ST § 71-7012. Breast and Cervical Cancer Advisory Committee;... ..	141

NE ST § 83-4,161. Communicable diseases; medical treatment protocols .....	142
NEVADA.....	144
NV ST 287.0272. Coverage for human papillomavirus vaccination required....	144
NV ST 422.2718. State Plan for Medicaid: Inclusion of requirement for.....	144
NV ST 441A.260. Provision of medical supplies and financial aid for.....	144
NV ST 441A.290. Infected person to report source of infection .....	144
NV ST 441A.310. Examination and treatment of minor without consent .....	145
NV ST 441A.320. Testing of person alleged to have committed sexual... ..	145
NV ST 689A.044. Coverage for human papillomavirus vaccine .....	146
NV ST 689B.0313. Required provision concerning coverage for human.....	146
NV ST 695B.1925. Required provision concerning coverage for human.....	147
NV ST 695C.1745. Required provision concerning coverage for human.....	147
NV ST 695G.171. Required provision concerning coverage for human.....	148
NEW HAMPSHIRE .....	149
NH ST § 141-C:18. Sexually Transmitted Disease.....	149
NEW JERSEY .....	150
NJ ST 26:2-167.1. Eliminating Health Disparities Initiative .....	150
NJ ST 26:4-27. Definitions .....	150
NJ ST 26:4-28. Venereal diseases declared infectious and communicable .....	150
NJ ST 26:4-47. Free diagnosis and treatment by state department of health.....	150
NJ ST 26:4-49.1. Pregnant women; blood sample; standard serological... ..	151
NJ ST 26:4-49.2. Standard serological test; duty of state department of health .....	151
NJ ST 26:4-49.6. Examination of migrant laborers; notice to state... ..	151
NJ ST 26:4-95.3. Legislative findings and declarations; human papillomavirus .....	151
NJ ST 26:4-95.4. Public awareness campaign relative to the human... ..	152
NJ ST 2C:34-5. Diseased person committing an act of sexual penetration. ....	152
NJ ST 52:4B-44. Standards to ensure rights of crime victims .....	152
NJ ST 9:17A-4. Consent by minor to medical care or treatment; venereal... ..	154
NEW MEXICO .....	156
NM ST § 24-1-7. Sexually transmitted diseases; reports of cases .....	156
NM ST § 24-1-8. Communication regarding sexually transmitted diseases .....	156
NM ST § 24-1-9. Capacity to consent to examination and treatment for a... ..	156

NM ST § 24-1-9.1. Sexually transmitted diseases; testing of persons.....	156
NM ST § 24-1-9.2. Sexually transmitted diseases; testing of persons.....	157
NM ST § 24-1-9.4. Sexually transmitted diseases; confidentiality.....	157
NM ST § 24-1-9.5. Sexually transmitted diseases; disclosure statement.....	158
NM ST § 24-1-9.6. Sexually transmitted diseases; disclosure.....	159
NM ST § 59A-22-40. Coverage for cytologic and human papillomavirus... ..	159
NM ST § 59A-22-40.1. Coverage for the human papillomavirus vaccine .....	159
NM ST § 59A-46-42.1. Coverage for the human papillomavirus vaccine .....	160
NEW YORK.....	161
NY PUB HEALTH § 2306. Sexually transmitted diseases; reports and... ..	161
NY PUB HEALTH § 2307. Venereal disease; person knowing himself to be... ..	161
NY PUB HEALTH § 2311. Sexually transmitted disease list .....	161
NORTH CAROLINA.....	162
NC ST § 15A-615. Testing of certain persons for sexually transmitted infections.....	162
NC ST § 58-51-57. Coverage for mammograms and cervical cancer screening .....	162
NC ST § 58-65-92. Coverage for mammograms and cervical cancer screening .....	163
NC ST § 58-67-76. Coverage for mammograms and cervical cancer screening .....	164
NORTH DAKOTA.....	166
ND ST 14-10-17. Minors--Treatment for sexually transmitted.....	166
ND ST 19-02.1-19. False advertising.....	166
ND ST 23-01-33. Human papilloma virus--Information .....	166
ND ST 23-07-03. Report of cases of sexually transmitted disease.....	166
ND ST 23-07-07. Sexually transmitted diseases--Additional powers and.....	167
ND ST 23-07-08. Persons in prison examined and treated for sexually... ..	167
ND ST 23-07-09. Sexually transmitted diseases--Persons isolated in... ..	167
ND ST 23-07-21. Penalties.....	167
ND ST 23-07.7-01. Court-ordered sexual offense medical testing .....	168
ND ST 23-07.7-02. Testing procedures--Results of test--Penalty .....	168
ND ST 50-24.1-17. Medical assistance for breast or cervical cancer .....	169
OHIO.....	170
OH ST § 2907.27. Examination and treatment for venereal diseases and HIV.....	170
OKLAHOMA.....	172

OK ST T. 63 § 1-236. Definitions.....	172
OK ST T. 63 § 1-237. Interagency Coordinating Council for Coordination of...	172
OK ST T. 63 § 1-517. Definitions.....	173
OK ST T. 63 § 1-524. Prisoners--Examinations--Testing certain persons for a.....	173
OK ST T. 63 § 1-524.1. Examination of certain arrested persons for a.....	174
OK ST T. 63 § 1-525. Prescriptions and records--Exposure.....	176
OK ST T. 63 § 1-526. Rules and regulations.....	177
OK ST T. 63 § 1-527. Reports of a sexually transmitted infection.....	177
OK ST T. 63 § 1-528. Sexually transmitted infection.....	177
OK ST T. 63 § 1-529. Investigations by health officers.....	177
OK ST T. 63 § 1-530. Protection against spread of infection.....	177
OK ST T. 63 § 1-531. Certificates of freedom from infection.....	178
OK ST T. 63 § 1-532.1. Minor's consent to examination and treatment for.....	178
OK ST T. 21 § 1192. Spread of infectious diseases.....	178
OREGON.....	179
OR ST § 147.395. Definitions.....	179
OR ST § 414.153. Payment for point of contact services.....	179
Ch. 348, § 1. Human papillomavirus; addendum to Oregon.....	180
PENNSYLVANIA.....	182
PA ST 35 P.S. § 521.7. Examination and diagnosis of persons suspected of...	182
PA ST 35 P.S. § 521.8. Venereal disease.....	182
PA ST 35 P.S. § 521.9. Diagnosis and treatment of venereal disease.....	183
RHODE ISLAND.....	184
RI ST § 23-11-1. Diseases declared contagious--Exposure of another to...	184
RI ST § 23-11-10. Investigation of suspected cases and sources.....	184
RI ST § 23-11-11. Power to examine suspected cases--Right of suspect.....	184
RI ST § 23-11-14. Reports by public and private laboratories.....	184
RI ST § 23-11-17. Human immunodeficiency virus (HIV) testing.....	184
RI ST § 23-11-20. Expedited partner therapy.....	185
RI ST § 23-11-3. Compulsory treatment of infected persons.....	185
RI ST § 23-11-5. Reports of cases by public and private institutions.....	185
RI ST § 23-11-8. Blood test of pregnant women.....	185

RI ST § 23-5-9. Upon death--Report of infectious disease .....	185
RI ST § 23-6.3-2. Definitions .....	186
RI ST § 23-6.3-4. Exceptions to consent requirements .....	189
SOUTH CAROLINA .....	191
SC ST § 16-3-740. Testing of certain convicted offenders for Hepatitis B... ..	191
SC ST § 44-29-100. Examination and treatment of prisoners for... ..	193
SC ST § 44-29-130. Adoption of regulations pertaining to sexually.....	193
SC ST § 44-29-135. Confidentiality of sexually transmitted disease records.....	193
SC ST § 44-29-136. Court orders for disclosure of records for law.....	194
SC ST § 44-29-60. Sexually transmitted diseases declared dangerous to.....	194
SC ST § 44-29-90. Examination, treatment and isolation of persons... ..	195
SOUTH DAKOTA .....	196
SD ST § 25-1-28.1. Distribution of HIV educational material before license... ..	196
SD ST § 34-23-1. Diseases declared dangerous--Exposure of another as.....	196
SD ST § 34-23-10. Blood sample and testing when pregnant woman not... ..	196
SD ST § 34-23-12. Blood test during pregnancy noted on birth... ..	196
SD ST § 34-23-13. Rules and regulations for venereal disease control .....	196
SD ST § 34-23-16. Minor's consent to treatment by physician.....	196
SD ST § 34-23-2. Reports of cases required of physicians and... ..	197
SD ST § 34-23-4. Infected persons required to submit to treatment--Isolation.....	197
SD ST § 34-23-5. Quarantine or isolation of infected person convicted of... ..	197
SD ST § 34-23-7. Treatment facilities provided by prison officials--Prisoners.....	197
SD ST § 34-23-9. Attending physician to take blood sample from pregnant.....	197
SD ST § 57A-2-315.1. Implied warranties--Exclusion of sales of blood.....	198
TENNESSEE .....	199
TN ST § 68-10-101. Definitions.....	199
TN ST § 68-10-112. Reports.....	199
TEXAS .....	200
TX FAMILY § 54.033. Sexually Transmitted Disease, AIDS, and HIV Testing.....	200
TX HEALTH & S § 81.003. Definitions .....	200
TX HEALTH & S § 85.088. State-Funded Health Clinics .....	202
TX CRIM PRO Art. 21.31. Testing for AIDS and Certain Other Diseases.....	202

UTAH .....	204
UT ST § 26-6-16. Venereal diseases declared dangerous to public health .....	204
UT ST § 26-6-17. Venereal disease--Examinations by .....	204
UT ST § 26-6-18. Venereal disease--Consent of minor to treatment .....	204
UT ST § 26-6-19. Venereal disease--Examination and treatment of .....	204
UT ST § 26-6-2. Definitions .....	204
UT ST § 26-6-20. Serological testing of pregnant or recently delivered women .....	206
UT ST § 26-6-3. Authority to investigate and control epidemic infections .....	206
UT ST § 30-1-2.3. Validation of marriage to a person with acquired .....	208
UT ST § 58-1-501.3. Health professional prescribing exceptions for .....	208
UT ST § 78B-8-401. Definitions .....	209
VERMONT .....	211
VT ST T. 18 § 1091. Venereal diseases; definitions .....	211
VT ST T. 18 § 1091a. Venereal diseases, control .....	211
VT ST T. 18 § 1092. Treatments, refusal, penalty .....	211
VT ST T. 18 § 1095. Treatment of partner of patient diagnosed with a... ..	211
VT ST T. 18 § 1101. Reports by public institutions .....	212
VT ST T. 18 § 1102. Taking blood samples .....	212
VT ST T. 18 § 1103. Birth certificate; serological test .....	213
VT ST T. 18 § 1104. Serological test, definition .....	213
VT ST T. 18 § 1105. Marrying when infected with venereal disease .....	213
VT ST T. 18 § 1106. Sexual intercourse when infected with venereal disease .....	213
VT ST T. 13 § 3256. Testing for infectious diseases .....	213
VT ST T. 18 § 4226. Minors; treatment; consent .....	215
VIRGINIA .....	215
VA ST § 18.2-67.4:1. Infected sexual battery; penalty .....	215
VA ST § 32.1-325. Board to submit plan for medical assistance services .....	215
VA ST § 32.1-36. Reports by physicians and laboratory directors, .....	221
VA ST § 32.1-55. Definition .....	222
VA ST § 32.1-56. Information to be provided patients .....	222
VA ST § 32.1-57. Examination, testing and treatment; failure to comply... ..	222
VA ST § 32.1-58. Persons convicted of certain crimes to be examined, .....	222

VA ST § 32.1-59. Examination and treatment in certain institutions .....	223
WASHINGTON .....	224
WA ST 43.70.665. Early detection breast and cervical cancer screening...	224
WA ST 70.02.010. Definitions (Effective July 1, 2014) .....	225
WA ST 70.24.015. Legislative finding .....	230
WA ST 70.24.017. Definitions.....	230
WA ST 70.24.024. Orders for examinations and counseling--Restrictive.....	231
WA ST 70.24.034. Detention--Grounds--Order--Hearing .....	232
WA ST 72.09.251. Communicable disease prevention guidelines.....	234
WA ST 74.09.659. Family planning waiver program request.....	234
WA ST 70.24.105. Disclosure of HIV antibody test or testing or treatment.....	234
WEST VIRGINIA .....	238
WV ST § 16-2-11. Local board of health; powers and duties.....	238
WV ST § 16-3C-1. Definitions .....	240
WV ST § 16-3C-2. Testing .....	242
WV ST § 16-4-14. Issuance of warrant or order as to custody .....	245
WV ST § 16-4-19. Voluntary submission to examination and treatment;.....	245
WV ST § 16-4-25. Advertisements concerning venereal disease, etc.....	246
WV ST § 33-15-4c. Third party reimbursement for mammography, pap.....	246
WV ST § 33-16-3g. Third party reimbursement for mammography, pap.....	247
WV ST § 33-24-7b. Third party reimbursement for mammography, pap... ..	247
WV ST § 33-25A-8a. Third party reimbursement for mammography, pap... ..	248
WV ST § 5-16-7. Authorization to establish group hospital and surgical... ..	248
WISCONSIN .....	252
WI ST 252.11. Sexually transmitted disease .....	252
WI ST 252.12. HIV and related infections, including hepatitis C virus.....	253
WI ST 253.07. Women's health block grant .....	255
WI ST 46.03. Department, powers and duties .....	257
WI ST 968.38. Testing for HIV infection and certain diseases .....	263
WI ST 973.017. Bifurcated sentences; use of guidelines; consideration of.....	265
WYOMING.....	269
WY ST § 26-18-103. General requirements for policies.....	269

WY ST § 33-46-103. Board of midwifery .....	270
WY ST § 35-1-223. Cooperation to prevent spread of contagious... ..	274
WY ST § 35-1-229. Rules and regulations .....	275
WY ST § 35-4-104. Quarantine regulations generally; modification or... ..	275
WY ST § 35-4-130. Declared contagious and dangerous to health; list.....	275
WY ST § 35-4-131. Consent of minors to treatment; treatment of.....	276
WY ST § 35-4-132. Report required of health care providers, facilities... ..	276
WY ST § 35-4-133. Examination and treatment of infected persons;... ..	277
WY ST § 35-4-134. Examination and treatment of prisoners .....	278
WY ST § 7-1-109. Examination for sexually transmitted diseases required... ..	278

## **ALABAMA**

### **AL ST § 22-13-51. Establishment and purpose of programs**

The department shall establish programs for breast, cervical, and colorectal cancer awareness for the following purposes:

- (1) Reducing morbidity and mortality from breast, cervical, and colorectal cancer through prevention, early detection, and treatment.
- (2) Making breast, cervical, and colorectal cancer screening services available to underserved and uninsured individuals throughout the state, especially those whose economic circumstances or geographic locations limit access to screening facilities.
- (3) Raising public awareness about breast, cervical, and colorectal cancer.
- (4) Collecting, classifying, and analyzing relevant research information and data concerning breast, cervical, and colorectal cancer.
- (5) Serving as a resource for information regarding breast, cervical, and colorectal cancer.

### **AL ST § 22-17-8. Service by persons having skin or venereal disease**

No operator of a barber, manicure or beauty shop shall permit any person suffering from a communicable skin disease or venereal disease to serve patrons in the said shop. Barbering, manicuring or beauty culture by any person suffering from a communicable skin disease or venereal disease is hereby prohibited.

### **AL ST § 22-6-11. Breast and cervical cancer prevention and treatment**

(a) This section shall be known and may be cited as the 2009 Breast and Cervical Cancer Prevention and Treatment Act.

- (b)(1) Medicaid eligibility and coverage shall be extended to a woman who has been determined to be eligible to participate in and has been screened for breast or cervical cancer by any health care provider or entity, or both, that satisfies any of the following:
- a. Receives direct payment for screening services by National Breast and Cervical Cancer Early Detection Program (NBCCEDP) Title XV funds.
  - b. Is funded at least in part by NBCCEDP grantee Title XV funds for screening services.
  - c. Is not funded at all by NBCCEDP grantee Title XV funds but has been identified by the Department of Public Health as part of the Alabama Breast and Cervical Cancer Early Detection Program and operates consistently within its guidelines.
- (2) Coverage under this section shall be limited to any woman screened and diagnosed pursuant to subdivision (1) who is under age 65 and who is uninsured in that she must not have creditable coverage, including current Medicaid enrollment, as that term is defined under the Health Insurance Portability and Accountability Act, Section 2701(c) of the Public Health Services Act, 42 U.S.C. § 300gg(c).

- (3) Any woman who meets the eligibility requirements for Medicaid pursuant to this section shall be entitled to medically necessary treatment for breast or cervical cancer and other medically necessary Medicaid services covered under the Medicaid State Plan for the period of eligibility.
- (4) The period of eligibility for coverage under this section is limited to the period during her course of treatment as determined by the medical professional responsible for the cancer treatment. Eligibility ends when her course of treatment is completed or the state determines that she no longer meets eligibility criteria for this category.
- (5) Notwithstanding subdivision (4), subsequent periods of eligibility may be extended provided the woman meets all criteria required to qualify for the initial period of coverage.
- (6) General Medicaid eligibility criteria including, but not limited to, residency and citizenship must be met.
- (7) Treatment under this section is limited to medically necessary treatment consistent with optimal standards of medical practice. Experimental treatments will not be covered.
- (8) The determination of medical eligibility for coverage under this section shall be administered by the Breast and Cervical Cancer Early Detection Program of the Alabama Department of Public Health following appropriate application procedures and shall include verification of Centers for Disease Control screening and diagnosis and a plan of treatment. Once medical eligibility is established, the Medicaid Agency will make the final Medicaid eligibility decision.
- (9) No coverage will be provided under this section for any period prior to the date of the Centers for Disease Control screening and diagnosis.

#### **AL ST § 15-23-100. Definitions.**

As used in this article, the following words shall have the following meanings:

- (1) **ALLEGED VICTIM.** A person or persons to whom transmission of body fluids from the perpetrator of the crime occurred or was likely to have occurred in the course of the alleged crime.
- (2) **PARENT OR GUARDIAN OF THE ALLEGED VICTIM.** A parent or legal guardian of an alleged victim who is a minor or incapacitated person.
- (3) **POSITIVE REACTION.** A positive test with a positive confirmatory test result as specified by the Department of Public Health.
- (4) **SEXUALLY TRANSMITTED DISEASE.** Those diseases designated by the State Board of Health as sexually transmitted diseases for the purposes of this article.
- (5) **TRANSMISSION OF BODY FLUIDS.** The transfer of blood, semen, vaginal secretions, or other body fluids identified by the Department of Public Health, from the alleged perpetrator of a crime to the mucous membranes or potentially broken skin of the victim.

### **AL ST § 15-23-101. Motion to order person charged to be tested for...**

When a person has been charged with the crime of rape, sodomy, or sexual misconduct and it appears from the nature of the charge that the transmission of body fluids from one person to another may have been involved, upon the request of the alleged victim or the parent or guardian of an alleged victim, the district attorney shall file a motion with the court for an order requiring the person charged to submit to a test for any sexually transmitted disease.

### **AL ST § 15-23-102. Order to submit to testing; designation of...**

- (a) If the district attorney files a motion under Section 15-23-101, the court shall order the person charged to submit to testing if the court determines there is probable cause to believe that the person charged committed the crime of rape, sodomy, or sexual misconduct and the transmission of body fluids was involved.
- (b) When a test is ordered under Section 15-23-101, the alleged victim of the crime or a parent or guardian of the alleged victim shall designate an attending physician who has agreed in advance to accept the victim as a patient to receive information on behalf of the alleged victim.
- (c) If any sexually transmitted disease test results in a negative reaction, the court shall order the person to submit to any follow-up tests at the intervals and in the manner as shall be determined by the State Board of Health.
- (d) The result of any test ordered under this section is not a public record and shall be available only to the following:
  - (1) The alleged victim.
  - (2) The parent or guardian of the alleged victim.
  - (3) The attending physician of the alleged victim.
  - (4) The person tested.
- (e) If any sexually transmitted disease test ordered under this section results in a positive reaction, the individual subject to the test shall receive post-test counseling. Counseling and referral for appropriate health care, testing, and support services as directed by the State Health Officer shall be provided to the alleged victim at the request of the alleged victim or the parent or guardian of the alleged victim

### **AL ST § 22-11A-2. Persons responsible to report diseases; contents of...**

Each physician, dentist, nurse, medical examiner, hospital administrator, nursing home administrator, laboratory director, school principal, and day care center director shall be responsible to report cases or suspected cases of notifiable diseases and health conditions. The report shall contain such information, and be delivered in such a manner, as may be provided for from time to time by the rules of the State Board of Health. All medical and statistical information and reports required by this article shall be confidential and shall not be subject to the inspection, subpoena, or admission into evidence in any court, except proceedings brought under this article to compel the examination, testing, commitment or quarantine of any person or upon the written consent of the patient, or if the patient is a minor, his parent or legal guardian. Any physician or other person making any report required by this article or participating in any judicial proceeding resulting therefrom shall, in so doing, be immune from any civil or criminal liability, that might otherwise be incurred or

imposed. No provision of this section shall be interpreted to prevent the publication of statistical reports or other summaries provided that said reports or summaries do not identify individual persons.

### **AL ST § 22-11A-13. Sexually transmitted diseases**

Sexually transmitted diseases which are designated by the State Board of Health are recognized and declared to be contagious, infectious and communicable diseases and dangerous to public health. The State Board of Health is authorized and directed to promulgate rules for the testing, reporting, investigation and treatment of sexually transmitted diseases.

### **AL ST § 22-11A-14. Cases of sexually transmitted diseases to be...**

- a. Any physician who diagnoses or treats a case of sexually transmitted disease as designated by the State Board of Health, or any administrator of any hospital, dispensary, correctional facility or other institution in which a case of sexually transmitted disease occurs shall report it to the state or county health officer or his designee in a time and manner prescribed by the State Board of Health.
- b. The report shall be upon a form prescribed by the State Board of Health and, at a minimum, shall state the patient's full name, date of birth, race, sex, marital status, address, telephone number, place of employment, stage of disease, medication and amount given, and the date of onset.
- c. Any person who is charged with the responsibility of operating a laboratory which performs tests for sexually transmitted diseases as designated by the State Board of Health shall report all positive and/or reactive test results to the State Board of Health in a time and manner prescribed by the State Board of Health.
- d. The laboratory report shall be on a form prescribed by the State Board of Health which, at a minimum, shall include the patient's full name, age or date of birth, race, test results, name and address of attending physician and date of report.
- e. The reports required by this section shall be confidential and shall not be subject to public inspection or admission into evidence in any court except proceedings brought under this article to compel the examination, testing, commitment or quarantine of any person or upon the written consent of the patient.
- f. Any person violating the provisions of this section or rules made pursuant thereto shall be guilty of a misdemeanor, and upon conviction, may be fined not less than \$100.00 nor more than \$500.00.
- g. Upon receipt of a report of a case of sexually transmitted disease, the county or State Health Officer shall institute such measures as he or she deems necessary or appropriate for the protection of other persons from infection by such diseased person as said health officer is empowered to use to prevent the spread of contagious, infectious or communicable diseases.

### **AL ST § 22-11A-16. Serologic or other biologic sample required to be...**

- (a) Every physician or other person permitted by law to attend a pregnant woman during gestation shall, in the case of each woman so attended, take or cause to be taken any serologic or other biologic sample of the woman as provided by the State Board of Health. Any sample shall be submitted to a laboratory approved by the board for testing for those sexually transmitted diseases for which there exists an

effective vaccine or curative treatment approved by the federal Food and Drug Administration and as provided by the board.

- (b) Every physician or other person permitted by law to attend a pregnant woman during delivery shall take or cause to be taken any serologic or other biologic sample of the woman and any newborn as provided by the State Board of Health. Any sample shall be submitted to a laboratory approved by the board for testing for those sexually transmitted diseases for which there exists an effective vaccine or curative treatment approved by the federal Food and Drug Administration and as provided by the board.
- (c) All positive or reactive tests shall be reported as provided in Section 22-11A-14.

#### **AL ST § 22-11A-17. Testing of correctional facility inmates for sexually...**

- (a) All persons sentenced to confinement or imprisonment in any city or county jail or any state correctional facility for 30 or more consecutive days shall be tested for those sexually transmitted diseases designated by the State Board of Health, upon entering the facility, and any inmate so confined for more than 90 days shall be examined for those sexually transmitted diseases 30 days before release. The results of any positive or reactive tests shall be reported as provided in Section 22-11A-14. Additionally, the results of any positive or negative test for HIV of a sexual offender shall be provided to the State Health Officer or his or her designee as provided in Section 22-11A-14. The provisions of this section shall not be construed to require the testing of any person held in a city or county jail awaiting removal to a state correctional facility.
- (b) The authorities of any state, county or city facility shall provide for treatment of any inmate diagnosed with a treatable sexually transmitted disease and not otherwise financially able to pay for such treatment. In the case of a discharge inmate who is infectious, a written notice shall be submitted to the State Health Officer or to the county health officer of the locality to which the prisoner is returned, setting forth the necessary facts and a record of the treatment administered while in custody.
- (c) At the request of the victim of a sexual offense (as defined in Section 13A-6-60, et seq.), the State Health Department shall release the results of any tests on the defendant convicted of such sexual offense, for the presence of etiologic agent for Acquired Immune Deficiency Syndrome (AIDS or HIV) to the victim of such sexual offense. The State Health Department shall also provide the victim of such sexual offense counsel regarding AIDS disease, AIDS testing, in accordance with applicable law and referral for appropriate health care and support services.

#### **AL ST § 22-11A-18. Isolation of person believed to have sexually...**

- (a) Any person where there is reasonable cause to believe has a sexually transmitted disease or has been exposed to a sexually transmitted disease shall be tested and examined by the county or State Health Officer or his designee or a licensed physician. Whenever any person so suspected refuses to be examined, such person may be isolated or committed as provided in this article until, in the judgment of the State or county Health Officer, that person is no longer dangerous to public health. The cost of rooming and boarding such person, other than when confined to his/her own residence, shall be the responsibility of the state.
- (b) The State Health Officer or county health officer shall require all persons infected with a sexually transmitted disease to report for treatment by the health officer or a licensed physician, and continue

treatment until such disease, in the judgment of the attending physician is no longer communicable or a source of danger to public health. When such infected persons are unable to pay the attending physician's fees and are indigent, they shall submit to treatment at state expense. Whenever, in the judgment of the state or county health officer, such a course is necessary to protect public health, a person infected with a sexually transmitted disease may be committed or isolated for compulsory treatment and quarantine in accordance with the provisions of this article. The cost of rooming and boarding such person, other than when confined to his/her own residence, shall be the responsibility of the state.

#### **AL ST § 22-11A-19. Minor 12 years or older may consent to medical...**

Notwithstanding any other provision of law, a minor 12 years of age or older who may have come into contact with any sexually transmitted disease as designated by the State Board of Health may give consent to the furnishing of medical care related to the diagnosis or treatment of such disease, provided a duly licensed practitioner of medicine in Alabama authorizes such diagnosis and treatment. The consent of the minor shall be as valid and binding as if the minor had achieved his or her majority, as the case may be. Such consent shall not be voidable nor subject to later disaffirmance because of minority. The medical provider or facility of whatever description providing diagnostic procedures or treatment to a minor patient who has come into contact with any designated sexually transmitted disease, may, but shall not be obligated to, inform the parent, parents or guardian of any such minor as to the treatment given or needed.

#### **AL ST § 22-11A-20. Physicians to instruct persons on prevention and...**

Every physician who examines or treats a person having a sexually transmitted disease shall instruct such person in measures for preventing the spread of such disease and the necessity of treatment until cured.

#### **AL ST § 22-11A-21. Penalties for treating or preparing medicine...**

- (a) Any person who shall treat or prescribe for any person having a sexually transmitted disease except a physician licensed to practice medicine in Alabama by the Medical Licensure Commission shall be guilty of a Class C misdemeanor.
- (b) Any druggist or other person who shall sell any drug, medicine or preparation or preparations advertised, called for, labeled or intended to be used as a cure or treatment for a sexually transmitted disease, except on the written prescription of a licensed physician, shall be guilty of a Class C misdemeanor.
- (c) Any person afflicted with a sexually transmitted disease who shall knowingly transmit, or assume the risk of transmitting, or do any act which will probably or likely transmit such disease to another person shall be guilty of a Class C misdemeanor.

#### **AL ST § 22-11A-22. Medical records of persons infected with sexually...**

All information, reports and medical records concerning persons infected with sexually transmitted diseases designated by the State Board of Health shall be confidential and shall not be subject to public inspection or admission into evidence in any court except commitment proceedings brought under this article. Individual medical records may be released on the written consent of the patient. Anyone violating the provisions of this section shall be guilty of a Class C misdemeanor.

## ALASKA

### AK ST § 08.65.140. Required practices

- (a) Except as provided in (e) of this section, a certified direct-entry midwife may not assume the care or delivery of a client unless the certified direct-entry midwife has recommended that the client undergo a physical examination performed by a physician, physician assistant, advanced nurse practitioner, or certified nurse midwife, who is licensed in this state.
- (b) A certified direct-entry midwife shall inform a woman seeking home birth of the possible risks of home birth and shall obtain a signed informed consent, including the recommendation for a physical examination required under (a) of this section, from the woman before the onset of labor. The consent shall be maintained by the certified direct-entry midwives as part of the woman's record. A certified direct-entry midwife shall accept full legal responsibility for the direct-entry midwife's acts or omissions.
- (c) A certified direct-entry midwife shall comply with the requirements of AS 18.15.150 concerning taking of blood samples, AS 18.15.200 concerning screening of phenylketonuria (PKU), AS 18.50.160 concerning birth registration, AS 18.50.230 concerning registration of deaths, AS 18.50.240 concerning fetal death registration, and regulations adopted by the Department of Health and Social Services concerning prophylactic treatment of the eyes of newborn infants.
- (d) A certified direct-entry midwife may not knowingly deliver a woman who
- (1) has a history of thrombophlebitis or pulmonary embolism;
  - (2) has gestational diabetes, diabetes, hypertension, Rh disease with positive titer, active tuberculosis, active syphilis, active gonorrhea, epilepsy, heart disease, or kidney disease;
  - (3) contracts genital herpes simplex in the first trimester of pregnancy or has active genital herpes in the last two weeks of pregnancy;
  - (4) has severe psychiatric illness;
  - (5) inappropriately uses controlled substances, including those obtained by prescription;
  - (6) has multiple gestation;
  - (7) has a fetus of less than 37 weeks gestation at the onset of labor;
  - (8) has a gestation of more than 42 weeks by dates and examination;
  - (9) has a fetus in any presentation other than vertex at the onset of labor;
  - (10) is a primigravida with an unengaged fetal head in active labor, or any woman who has rupture of membranes with unengaged fetal head, with or without labor;
  - (11) has a fetus with suspected or diagnosed congenital anomalies that may require immediate medical intervention;
  - (12) has pre-eclampsia or eclampsia;
  - (13) has bleeding with evidence of placenta previa;
  - (14) has any condition determined by the board to be of high risk to the pregnant woman and newborn;
  - (15) has had a previous caesarian delivery or other uterine surgery;
  - (16) experienced the rupture of membranes at least 24 hours before the onset of labor; or
  - (17) is less than 16 years of age at the time of delivery.
- (e) Notwithstanding (d) of this section, a certified direct-entry midwife may deliver a woman with any of the complications or conditions listed in (d)(1) - (17) of this section if
- (1) the delivery is a verifiable emergency; and

(2) a physician or certified nurse midwife is not available in the geographic vicinity.

(f) A certified direct-entry midwife may not attempt to correct fetal presentation by external or internal inversion unless

(1) there is a verifiable emergency; and

(2) a physician or certified nurse midwife is not available in the geographic vicinity.

### **AK ST § 18.15.150. Taking of blood sample**

Each licensed physician and in the absence of a licensed physician each licensed graduate nurse who attends a pregnant woman for conditions relating to the pregnancy during the period of gestation or at delivery shall take, or have taken, a sample of the blood of the woman at the time of the woman's first professional visit or within 10 days after the visit, unless the serological test is contrary to the tenets or practice of the religious creed of which the woman is an adherent. The blood specimen shall be submitted to an approved laboratory or clinic for a standard serological test of syphilis. Any other person permitted by law to attend pregnant women but not permitted by law to take blood samples shall have a sample of blood taken by a licensed physician, or on order of a licensed physician, and shall submit the sample to an approved laboratory or clinic for a standard serological test for syphilis.

### **AK ST § 18.15.160. Test for syphilis**

For the purposes of AS 18.15.150 - 18.15.180 a standard serological test is a test for syphilis approved by the department and shall be performed in a laboratory or clinic approved by the department. On request the laboratory test required by AS 18.15.150 - 18.15.180 shall be performed without charge at the laboratories of the department.

### **AK ST § 18.15.170. Report of birth**

In reporting a birth and stillbirth, the physician and other person required to make the report shall state on the certificate whether a serological test for syphilis has been made upon a specimen of blood taken from the woman who bore the child and the approximate date when the specimen was taken. A birth certificate may not state the result of the test.

### **AK ST § 18.15.270. Testing procedures**

(a) The department shall make available on a statewide basis the best current testing method available to detect gonorrhea and chlamydia.

(b) The department shall use the best current testing method available for diagnosis of gonorrhea and chlamydia.

### **AK ST § 18.15.310. Testing; test results**

(a) The withdrawal of blood for a test under AS 18.15.300-18.15.320 shall be performed in a medically approved manner. Only a physician or physician assistant licensed under AS 08.64, registered nurse, licensed practical nurse, or certified emergency medical technician may withdraw blood specimens for the purposes of AS 18.15.300-18.15.320.

- (b) The court shall order that the blood specimens withdrawn under AS 18.15.300 - 18.15.320 be transmitted to a licensed medical laboratory and that tests be conducted on them for medically accepted indications of exposure to or infection by the human immunodeficiency virus (HIV) and other sexually transmitted diseases for which medically approved testing is readily and economically available as determined by the court.
- (c) Copies of test results that indicate exposure to or infection by HIV or other sexually transmitted diseases shall also be transmitted to the department.
- (d) The test results shall be provided to the designated recipients with the following disclaimer:

“The tests were conducted in a medically approved manner but tests cannot determine exposure to or infection by HIV or other sexually transmitted diseases with absolute accuracy. Persons receiving this test result should continue to monitor their own health and should consult a physician as appropriate.”
- (e) The court shall order all persons, other than the test subject, who receive test results under AS 18.15.300 - 18.15.320 to maintain the confidentiality of personal identifying data relating to the test results except for disclosures by the victim, or if the victim is a minor or incompetent by the victim's parents or legal guardian, as
  - (1) is necessary to obtain medical or psychological care or advice or to ensure the health of the victim's spouse, immediate family, persons occupying the same household as the victim, or a person in a dating, courtship, or engagement relationship with the victim;
  - (2) is necessary to pursue civil remedies against the test subject; or
  - (3) otherwise permitted by the court.
- (f) The specimens and the results of tests ordered under AS 18.15.300 - 18.15.320 are not admissible evidence in a criminal or juvenile proceeding.
- (g) A person performing testing, transmitting test results, or disclosing information under AS 18.15.300 - 18.15.320 is immune from civil liability for an act or omission under authority of AS 18.15.300 - 18.15.320. However, this subsection does not preclude liability for a grossly negligent or intentional violation of a provision of AS 18.15.300 - 18.15.320.
- (h) If the results of a blood test conducted under AS 18.15.300 indicate exposure to or infection by HIV or other sexually transmitted diseases for which testing was conducted, the department shall provide (1) free counseling and free testing to a victim for HIV and other sexually transmitted diseases reasonably communicable through the offense; and (2) counseling to the alleged perpetrator or defendant upon request of the alleged perpetrator or defendant. The department shall provide referral to appropriate health care facilities and support services at the request of the victim.
- (i) In this section,
  - (1) “AIDS” means acquired immunodeficiency syndrome or HIV symptomatic disease;

(2) “counseling” means providing a person with information and explanations relating to AIDS and HIV that are medically appropriate for that person, including all or part of the following:

- (A) accurate information regarding AIDS and HIV;
- (B) an explanation of behaviors that reduce the risk of transmitting AIDS and HIV;
- (C) an explanation of the confidentiality of information relating to AIDS diagnoses and HIV tests;
- (D) an explanation of information regarding both social and medical implications of HIV tests;
- (E) disclosure of commonly recognized treatment or treatments of AIDS and HIV;

(3) “HIV” means the human immunodeficiency virus.

### **AK ST § 21.42.395. Coverage for prostate and cervical cancer detection**

- (a) Except for a fraternal benefit society, a health care insurer that offers, issues for delivery, delivers, or renews in this state a health care insurance plan shall provide coverage for the costs of prostate cancer screening tests as required under the schedule described in (b) of this section and shall provide coverage for the costs of cervical cancer screening tests as required under (c) of this section. The coverage required by this section is subject to standard policy provisions applicable to other benefits, including deductible or copayment provisions. If a physician recommends that a covered individual undergo prostate cancer screening by taking a prostate antigen blood test, coverage may not be denied because the covered individual has already had a digital rectal examination and the examination results were negative.
- (b) The minimum coverage required under (a) of this section includes an annual prostate cancer screening test for a person who is
- (1) at least 35 years of age but less than 40 years of age and the person is in a high risk group; in this paragraph, “high risk” means a person who is an African-American or who has a family history of prostate cancer; or
  - (2) 40 or more years of age.
- (c) The minimum coverage required under (a) of this section for cervical cancer screening is an annual pap smear cancer screening test for a person who is 18 or more years of age.
- (d) Repealed by SLA 1997, ch. 81, § 115, eff. July 1, 1997.
- (e) In this section, “prostate cancer screening tests” includes a prostate antigen blood test or another test that is equivalent or better in cancer detection.

### **AK ST § 23.35.150. Definitions**

In this chapter,

- (1) “approved medical facilities” and “medical care” include the facilities of, or the care and treatment prescribed or performed by, a practitioner of chiropractic licensed by the state under AS 08.20;
- (2) “council” means the Fishermen's Fund Advisory and Appeals Council;

- (3) "fisherman" means a person who is licensed by the state to engage in commercial fishing under AS 16.05.480 or who is the holder of a permit issued under AS 16.43 and who, at the time injury is sustained or illness is contracted, is actually so engaged or is occupied in Alaska in preparing or dismantling boats or gear used in commercial fishing;
- (4) "fund" means the Fishermen's Fund;
- (5) "occupational disease" means hernia; varicose veins of the leg; the respiratory diseases, bronchitis, pleurisy, and pneumonia caused by or aggravated by the fishing endeavor, but excluding the common cold and influenza; rheumatism, arthritis, and those musculoskeletal diseases (such as bursitis, traumatic sciatica, and tenosynovitis) directly caused by or aggravated by the fishing endeavor; and does not include a disease not common to both sexes, venereal disease, or a condition arising out of an attempt of a fisherman to injure self or another.

## ARIZONA

### AZ ST § 13-1415. Human immunodeficiency virus and sexually...

- A. A defendant, including a defendant who is a minor, who is alleged to have committed a sexual offense or another offense involving significant exposure is subject to a court order that requires the defendant to submit to testing for the human immunodeficiency virus and other sexually transmitted diseases and to consent to the release of the test results to the victim.
- B. Pursuant to subsection A of this section, the prosecuting attorney, if requested by the victim, or, if the victim is a minor, by the parent or guardian of the minor, shall petition the court for an order requiring that the person submit a specimen, to be determined by the submitting entity, for laboratory testing by the department of health services or another licensed laboratory for the presence of the human immunodeficiency virus and other sexually transmitted diseases. The court, within ten days, shall determine if sufficient evidence exists to indicate that significant exposure occurred. If the court makes this finding or the act committed against the victim is a sexual offense it shall order that the testing be performed in compliance with rules adopted by the department of health services. The prosecuting attorney shall provide the victim's name and last known address of record to the department of health services for notification purposes. The victim's name and address are confidential, except that the department of health services may disclose the information to a local health department for victim notification purposes.
- C. After a specimen has been tested pursuant to subsection B of this section, the laboratory that performed the test shall report the results to the submitting entity.
- D. The submitting entity shall provide the results to the department of health services or a local health department. The department of health services or a local health department shall notify the victim of the results of the test conducted pursuant to subsection B of this section and shall counsel the victim regarding the health implications of the results.
- E. The submitting entity or the department of health services shall notify the person tested of the results of the test conducted pursuant to subsection B of this section and shall counsel the person regarding the health implications of the results. If the submitting entity does not notify the person tested of the test results, the submitting entity shall provide both the name and last known address of record of the person tested and the test results to the department of health services or a local health department for notification purposes.
- F. Notwithstanding any other law, copies of the test results shall be provided only to the victim of the crime, the person tested, the submitting entity and the department of health services.
- G. For the purposes of this section:
  - (1) "Sexual offense" means oral sexual contact, sexual contact or sexual intercourse as defined in § 13-1401.
  - (2) "Sexually transmitted diseases" means:
    - (a) Chlamydia.
    - (b) Genital herpes.

- (c) Gonorrhoea.
- (d) Syphilis.
- (e) Trichomonas.

(3) "Significant exposure" means contact of the victim's ruptured or broken skin or mucous membranes with a person's blood or body fluids, other than tears, saliva or perspiration, of a magnitude that the centers for disease control have epidemiologically demonstrated can result in transmission of the human immunodeficiency virus.

(4) "Submitting entity" means one of the following:

- (a) A local health department.
- (b) A health unit of the state department of corrections. (c) A health unit of any detention facility.
- (c) A physician licensed pursuant to title 32, chapter 13, 17 or 29. 1

### **AZ ST § 36-119. Breast and cervical cancer screening and diagnostic...**

- A. The breast and cervical cancer screening and diagnostic special plate fund is established consisting of monies received pursuant to § 28-2423. The director shall administer the fund. Not more than ten per cent of monies deposited in the fund annually shall be used for the cost of administering the fund. Monies in the fund are continuously appropriated. The director shall distribute monies in the fund before July 1 of each year.
- B. The director shall allocate monies from the fund for breast and cervical cancer screening and diagnostics and outreach services in this state. Monies allocated pursuant to this section shall be used to further breast and cervical cancer screening and diagnostics.
- C. Monies in the fund are exempt from the provisions of § 35-190 relating to lapsing of appropriations.

### **AZ ST § 36-2901.05. Breast and cervical cancer treatment; additional...**

- A. For the purposes of this article, beginning January 1, 2002, "eligible person" includes a person who meets all of the following requirements:
  - 1. Has been screened for breast and cervical cancer by a provider or entity that is recognized by the well woman healthcheck program administered by the department of health services as part of its program under title XV of the public health service act and that operates consistently with well woman healthcheck program guidelines.
  - 2. Needs treatment for breast or cervical cancer.
  - 3. Has an income level that is at or below two hundred fifty per cent of the federal poverty guidelines.
  - 4. Is under sixty-five years of age.
  - 5. Is not otherwise covered under creditable coverage as defined in section 2701(c) of the public health services act (42 United States Code section 300gg(c)).
- B. The administration shall limit the assistance it provides pursuant to this section to medically necessary services provided during the period that the person requires treatment for breast or cervical cancer as determined by the administration.

- C. The administration shall use a simplified eligibility form that the applicant may mail to the administration. Once the administration receives a completed application, the administration shall expedite the eligibility determination and enrollment on a prospective basis.

## ARKANSAS

### AR ST § 17-98-302. Examinations; admission

- (a) The State Board of Disease Intervention Specialists shall admit to examination any person who makes application to the Secretary of the State Board of Disease Intervention Specialists on forms prescribed and furnished by the board, pays an application fee set by the board to defray the expense of examination, and submits satisfactory proof to the board that he or she:
- (1) Is a person of good moral character;
  - (2) Meets the minimum educational requirements;
  - (3) Meets the minimum specialized training requirements, as determined by the board;
  - (4) Has had two (2) years of field experience in human immunodeficiency virus/sexually transmitted disease intervention; and
  - (5) Is actively engaged in the field of human immunodeficiency virus/sexually transmitted disease intervention at the time he or she makes application.
- (b) The minimum educational requirements for admission to examination for registration as a disease intervention specialist shall be as follows:
- (1) A bachelor's or master's of public health degree with specialization in disease intervention from a school of public health approved by the board; or
  - (2) A bachelor's degree with a minimum of thirty (30) semester hours or its equivalent in biology, chemistry, physics, math, sociology, psychology, or criminal justice, plus two (2) years' experience in disease intervention or training courses approved by the board.
- (c) Any person meeting the educational and specialized training requirements of this chapter who does not meet the experience requirements of this chapter may make application to the board, through a process prescribed by the board, for acceptance as an associate disease intervention specialist. The board shall accept such an application when submitted, if accompanied by the required fee.
- (d) Any person who meets the educational requirements of this chapter but does not meet the specialized training requirements established for an associate disease intervention specialist may make application to the board, through a process prescribed by the board, for acceptance as a disease intervention specialist-in-training.

### AR ST § 20-16-501. Notification required

- (a) Any person who determines by laboratory examination that a specimen derived from a human body yields microscopical, cultural, serological, or other evidence suggestive of those sexually transmitted diseases enumerated in subsection (b) of this section shall notify the HIV/STD/Hepatitis C Section of the Department of Health of such findings.
- (b) Notice shall be given for the following conditions or diseases:
- (1) Syphilis;
  - (2) Gonorrhea;
  - (3) Chancroid;
  - (4) Lymphogranuloma Venereum; and

(5) Granuloma Inguinale.

(c) Specific reportable sexually transmitted disease tests are:

- (1) All reactive or positive and weakly reactive or doubtful serological tests for syphilis;
- (2) All reactive or positive and weakly reactive or doubtful spinal fluid serological tests for syphilis;
- (3) All positive darkfield microscopic tests for *treponema pallidum*;
- (4) All positive gonococcal smears or cultures; and
- (5) All positive tests indicating the presence of Ducrey's bacillus, known as chancroid, or Donovan bodies, known as Granuloma Inguinale, or filterable virus, known as Lymphogranuloma Venereum.

### **AR ST § 20-16-507. Pregnant women--Examination requirements**

(a)(1)(A) Every physician and health care provider attending pregnant women in this state for conditions relating to their pregnancy shall, in the case of every woman so attended, take or cause to be taken a sample of venous blood or other approved specimen of the woman as early as reasonably possible in the pregnancy or, if not attended prenatally, at the time of delivery, and shall submit the sample to an approved laboratory for:

- i. A standard serological test for syphilis;
- ii. A standard test for human immunodeficiency virus; and
- iii. A standard test for hepatitis B.

(B) If for any reason the pregnant woman is not tested for syphilis, human immunodeficiency virus, or hepatitis B, that fact shall be recorded in the patient's records, which, if based upon the refusal of the patient, shall relieve the physician of any responsibility under this subsection.

(2) Every other person authorized by law to attend or to provide medical treatment to pregnant women in this state but not permitted by law to take blood samples shall cause a sample of blood or other approved specimen of the pregnant woman to be taken as early as reasonably possible in the pregnancy or, if not attended prenatally, at the time of delivery, by or under the direction of a physician licensed to practice medicine and surgery and have the sample submitted to an approved laboratory for:

- (A) A standard serological test for syphilis;
- (B) A standard test for human immunodeficiency virus; and
- (C) A standard test for hepatitis B.

(3) Every physician described in subdivision (a)(1) of this section and every person described in subdivision (a)(2) of this section shall:

- (A) Inform each pregnant woman whom he or she is attending of the fact that syphilis, human immunodeficiency virus, and hepatitis B may be transmitted from an infected mother to the fetus or unborn child and that these infections may be prevented if the maternal infection is recognized and treated; and
- (B) Provide counseling and instruction for human immunodeficiency virus in a manner prescribed by the Division of Health of the Department of Health and Human Services based upon contemporary state and federal standards.

- (b) For the purpose of this section, a standard serological test shall be a test for syphilis, human immunodeficiency virus, and hepatitis B, approved or authorized by the Centers for Disease Control and Prevention, and approved by the Director of the Division of Health of the Department of Health and Human Services and shall be made at the division's laboratory or at another laboratory approved to make such tests.
- (c) All records, reports, data, or other information collected or maintained under this section that identifies or could be used to identify any individual patient, provider, or institution shall be confidential, shall not be subject to discovery pursuant to the Arkansas Rules of Civil Procedure or the Freedom of Information Act of 1967, § 25-19-101 et seq. However, <sup>1</sup> this subsection shall not affect the reports required to be submitted to the division under other laws and rules and regulations.

### **AR ST § 20-9-1103. Cervical Cancer Task Force--Powers and duties**

- (a) The Cervical Cancer Task Force shall:
  - (1) Make recommendations to the Breast Cancer Control Advisory Board consistent with the intent of this subchapter;
  - (2) Pursue both public and private funding to further the intent of this subchapter; and
  - (3) Develop standards and policy recommendations considering, but not limited to, the following:
    - (A) Methods for raising public awareness of the prevalence, causes, prevention, screening, and treatment considerations for cervical cancer;
    - (B) Methods for raising the medical community's awareness of the prevalence, causes, prevention, screening, and treatment considerations for cervical cancer; and
    - (C) Methods for ensuring that services across the spectrum of causes, prevention, screening, evaluation, and treatment are available to women in Arkansas.
- (b) The Arkansas Central Cancer Registry of the Department of Health shall provide an annual cervical cancer report to the task force.

## CALIFORNIA

### CA HLTH & S § 120500. “Venereal diseases” defined

As used in the Communicable Disease Prevention and Control Act (Section 27) “venereal diseases” means syphilis, gonorrhea, chancroid, lymphopathia venereum, granuloma inguinale, and chlamydia.

### CA HLTH & S § 120582. Diagnosis of sexually transmitted infection;...

- (a) Notwithstanding any other provision of law, a physician and surgeon who diagnoses a sexually transmitted chlamydia, gonorrhea, or other sexually transmitted infection, as determined by the department, in an individual patient may prescribe, dispense, furnish, or otherwise provide prescription antibiotic drugs to that patient's sexual partner or partners without examination of that patient's partner or partners. The department may adopt regulations to implement this section.
- (b) Notwithstanding any other provision of law, a nurse practitioner pursuant to Section 2836.1 of the Business and Professions Code, a certified nurse-midwife pursuant to Section 2746.51 of the Business and Professions Code, and a physician assistant pursuant to Section 3502.1 of the Business and Professions Code may dispense, furnish, or otherwise provide prescription antibiotic drugs to the sexual partner or partners of a patient with a diagnosed sexually transmitted chlamydia, gonorrhea, or other sexually transmitted infection, as determined by the department, without examination of the patient's sexual partner or partners.

### CA HLTH & S § 120860. Program of prevention, education, testing and...

- (a) The department shall, in coordination with the State Department of Health Care Services, develop a plan that assesses the need for, a program of acquired immune deficiency syndrome (AIDS) primary prevention, health education, testing, and counseling, specifically designed for women and children, that shall be integrated, as the department deems appropriate, into the following programs:
  - (1) The California Childrens Services Program provided for pursuant to Article 5 (commencing with Section 123800) of Chapter 3 of Part 2 of Division 106.
  - (2) Programs under the Maternal and Child Health Branch of the department.
  - (3) The Child Health Disability Prevention Program provided for pursuant to Article 6 (commencing with Section 124025) of Chapter 3 of Part 2 of Division 106.
  - (4) The Genetic Disease Program, provided for pursuant to Sections 125000 and 125005.
  - (5) The Family Planning Programs, provided for pursuant to Chapter 8.5 (commencing with Section 14500) of Part 3 of Division 9 of the Welfare and Institutions Code.
  - (6) The Rural and Community Health Clinics Program.
  - (7) The County Health Services Program, provided for pursuant to Part 4.5 (commencing with Section 16700) of Division 9 of the Welfare and Institutions Code.
  - (8) The Sexually Transmitted Disease Program.
  - (9) Substance use disorder programs administered by the State Department of Health Care Services.
- (b) The AIDS-related services that shall be addressed in the plan specified in this section shall include, but not be limited to, all of the following:

- (1) A variety of educational materials that are appropriate to the cultural background and educational level of the program clientele.
  - (2) The availability of confidential HIV antibody testing and counseling either onsite or by referral.
- (c) Pursuant to subdivision (a), the plan shall include a method to provide the educational materials specified in subdivision (b) and appropriate AIDS-related training programs for those persons who provide direct services to women and children receiving services under the programs specified in this section.
- (d) In order that the AIDS-related services plan provided through the programs specified in this section be as effective as possible, the department shall ensure that the educational materials and training programs provided for each program specified in subdivision (a) are developed in coordination with, and with input from, each of the respective programs.
- (e) Nothing in this section shall preclude the department from incorporating the plan requirements into the department's annual state AIDS plan, or any other reporting document relating to AIDS deemed appropriate by the department.

### **CA HLTH & S § 121025. Personally identifying information confidentiality;...**

- (a) Public health records relating to human immunodeficiency virus (HIV) or acquired immunodeficiency syndrome (AIDS), containing personally identifying information, that were developed or acquired by a state or local public health agency, or an agent of that agency, shall be confidential and shall not be disclosed, except as otherwise provided by law for public health purposes or pursuant to a written authorization by the person who is the subject of the record or by his or her guardian or conservator.
- (b) In accordance with subdivision (g) of Section 121022, a state or local public health agency, or an agent of that agency, may disclose personally identifying information in public health records, as described in subdivision (a), to other local, state, or federal public health agencies or to corroborating medical researchers, when the confidential information is necessary to carry out the duties of the agency or researcher in the investigation, control, or surveillance of disease, as determined by the state or local public health agency.
- (c) Except as provided in paragraphs (1) to (3), inclusive, any disclosure authorized by subdivision (a) or (b) shall include only the information necessary for the purpose of that disclosure and shall be made only upon agreement that the information will be kept confidential and will not be further disclosed without written authorization, as described in subdivision (a).
- (1) Notwithstanding any other provision of law, the following disclosures shall be authorized for the purpose of enhancing completeness of HIV/AIDS, tuberculosis, and sexually transmitted disease coinfection reporting to the federal Centers for Disease Control and Prevention (CDC):
    - (A) The local public health agency HIV surveillance staff may further disclose the information to the health care provider who provides HIV care to the HIV-positive person who is the subject of the record for the purpose of assisting in compliance with subdivision (a) of Section 121022.
    - (B) Local public health agency tuberculosis control staff may further disclose the information to state public health agency tuberculosis control staff, who may further disclose the information, without disclosing patient identifying information, to the CDC, to the extent the information is requested by

the CDC and permitted by subdivision (b), for purposes of the investigation, control, or surveillance of HIV and tuberculosis coinfections.

(C) Local public health agency sexually transmitted disease control staff may further disclose the information to state public health agency sexually transmitted disease control staff, who may further disclose the information, without disclosing patient identifying information, to the CDC, to the extent it is requested by the CDC, and permitted by subdivision (b), for the purposes of the investigation, control, or surveillance of HIV and syphilis, gonorrhea, or chlamydia coinfection.

(2) Notwithstanding any other provision of law, the following disclosures shall be authorized for the purpose of facilitating appropriate HIV/AIDS medical care and treatment:

(A) State public health agency HIV surveillance staff, AIDS Drug Assistance Program staff, and care services staff may further disclose the information to local public health agency staff, who may further disclose the information to the HIV-positive person who is the subject of the record, or the health care provider who provides his or her HIV care, for the purpose of proactively offering and coordinating care and treatment services to him or her.

(B) AIDS Drug Assistance Program staff and care services staff in the State Department of Public Health may further disclose the information directly to the HIV-positive person who is the subject of the record or the health care provider who provides his or her HIV care, for the purpose of proactively offering and coordinating care and treatment services to him or her.

(C) Local public health agency staff may further disclose acquired or developed information to the HIV-positive person who is the subject of the record or the health care provider who provides his or her HIV care for the purpose of proactively offering and coordinating care and treatment services to him or her.

(3) Notwithstanding any other provision of law, for the purpose of facilitating appropriate medical care and treatment of persons coinfecting with HIV, tuberculosis, and syphilis, gonorrhea, or chlamydia, local public health agency sexually transmitted disease control and tuberculosis control staff may further disclose the information to state or local public health agency sexually transmitted disease control and tuberculosis control staff, the HIV-positive person who is the subject of the record, or the health care provider who provides his or her HIV, tuberculosis, and sexually transmitted disease care.

(4) For the purposes of paragraphs (2) and (3), "staff" shall not include nongovernmental entities, but shall include state and local contracted employees who work within state and local public health departments.

(d) No confidential public health record, as defined in subdivision (c) of Section 121035, shall be disclosed, discoverable, or compelled to be produced in any civil, criminal, administrative, or other proceeding.

(e) (1) A person who negligently discloses the content of a confidential public health record, as defined in subdivision (c) of Section 121035, to any third party, except pursuant to a written authorization, as described in subdivision (a), or as otherwise authorized by law, shall be subject to a civil penalty in an amount not to exceed five thousand dollars (\$5,000), plus court costs, as determined by the court, which penalty and costs shall be paid to the person whose record was disclosed.

(2) Any person who willfully or maliciously discloses the content of any confidential public health record, as defined in subdivision (c) of Section 121035, to any third party, except pursuant to a written authorization, or as otherwise authorized by law, shall be subject to a civil penalty in an amount not

less than five thousand dollars (\$5,000) and not more than twenty-five thousand dollars (\$25,000), plus court costs, as determined by the court, which penalty and costs shall be paid to the person whose confidential public health record was disclosed.

- (3) Any person who willfully, maliciously, or negligently discloses the content of any confidential public health record, as defined in subdivision (c) of Section 121035, to any third party, except pursuant to a written authorization, or as otherwise authorized by law, that results in economic, bodily, or psychological harm to the person whose confidential public health record was disclosed, is guilty of a misdemeanor, punishable by imprisonment in a county jail for a period not to exceed one year, or a fine of not to exceed twenty-five thousand dollars (\$25,000), or both, plus court costs, as determined by the court, which penalty and costs shall be paid to the person whose confidential public health record was disclosed.
- (4) Any person who commits any act described in paragraph (1), (2), or (3), shall be liable to the person whose confidential public health record was disclosed for all actual damages for economic, bodily, or psychological harm that is a proximate result of the act.
- (5) Each violation of this section is a separate and actionable offense.
- (6) Nothing in this section limits or expands the right of an injured person whose confidential public health record was disclosed to recover damages under any other applicable law.

(f) In the event that a confidential public health record, as defined in subdivision (c) of Section 121035, is disclosed, the information shall not be used to determine employability, or insurability of any person.

#### **CA HLTH & S § 1367.66. Annual cervical cancer screening test coverage**

Every individual or group health care service plan contract, except for a specialized health care service plan, that is issued, amended, or renewed on or after January 1, 2002, and that includes coverage for treatment or surgery of cervical cancer shall also be deemed to provide coverage for an annual cervical cancer screening test upon the referral of the patient's physician and surgeon, a nurse practitioner, or a certified nurse midwife, providing care to the patient and operating within the scope of practice otherwise permitted for the licensee.

The coverage for an annual cervical cancer screening test provided pursuant to this section shall include the conventional Pap test, a human papillomavirus screening test that is approved by the federal Food and Drug Administration, and the option of any cervical cancer screening test approved by the federal Food and Drug Administration, upon the referral of the patient's health care provider.

Nothing in this section shall be construed to establish a new mandated benefit or to prevent application of deductible or copayment provisions in an existing plan contract. The Legislature intends in this section to provide that cervical cancer screening services are deemed to be covered if the plan contract includes coverage for cervical cancer treatment or surgery.

#### **CA WEL & INST § 14503.5. AIDS information and referral services**

(a) As used in this section:

- (1) "AIDS" means acquired immune deficiency syndrome.
- (2) "Human immunodeficiency virus" or "HIV" means the etiologic virus of AIDS.
- (3) "HIV test" means "HIV test" as defined in Section 120775 of the Health and Safety Code.

- (b) The purpose of this article is to ensure that state-funded family planning programs offer AIDS information and referral services to their client population.
- (c) It is the intent of the Legislature that family planning clients learn how to prevent the transmission of HIV, and that they take steps to prevent its transmission.
- (d) For purposes of this section, “clients” shall include, but shall not be limited to, all of the following:
  - (1) New clients to a family planning program.
  - (2) Clients making annual visits to a family planning program.
  - (3) Clients seeking pregnancy testing or family planning services.
  - (4) Clients seeking diagnosis and treatment for sexually transmitted diseases.
- (e) Any family planning program that has a grant from the Office of Family Planning to provide family planning services shall do all of the following:
  - (1) Provide brochures or other written materials to family planning clients that describe the high-risk conditions and behaviors for becoming infected with HIV and ways to prevent the transmission of HIV infection. To the maximum extent possible, the brochure or other written materials provided by any family planning program shall be culturally relevant and appropriate to the client populations served by the programs.
  - (2) Provide, as needed, family planning clients with information about and referrals to local confidential or anonymous testing and counseling sites, AIDS education programs, and other supportive services.
- (f) Brochures and information required pursuant to subdivision (e) may be incorporated into existing information and health education programs provided by a family planning program.
- (g) The department shall make every effort to obtain brochures and other written materials from existing resources. Local family planning programs are encouraged to supplement the brochures with other available resources, to the extent that they deem necessary and appropriate.

#### **CA HLTH & S § 1644.5. Transplantation of tissues; screening tests for...**

- (a) Except as provided in subdivision (c) or (d), no tissues shall be transferred into the body of another person by means of transplantation, unless the donor of the tissues has been screened and found nonreactive by laboratory tests for evidence of infection with human immunodeficiency virus (HIV), agents of viral hepatitis (HBV and HCV), and syphilis. For tissues that are rich in viable leukocytes, the tissue shall be tested for evidence of infection with human T lymphotropic virus (HTLV) and found nonreactive. The department may adopt regulations requiring additional screening tests of donors of tissues when, in the opinion of the department, the action is necessary for the protection of the public, donors, or recipients.
- (b) Notwithstanding subdivision (a), infectious disease screening of blood and blood products shall be carried out solely in accordance with Article 2 (commencing with Section 1602.5) of Chapter 4.
- (c) All donors of sperm shall be screened and found nonreactive as required under subdivision (a), except in the following instances:

- (1) A recipient of sperm, from a sperm donor known to the recipient, may waive a second or other repeat testing of that donor if the recipient is informed of the requirements for testing donors under this section and signs a written waiver.
- (2) A recipient of sperm may consent to therapeutic insemination of sperm or use of sperm in other assisted reproductive technologies even if the sperm donor is found reactive for hepatitis B, hepatitis C, syphilis, HIV, or HTLV if the sperm donor is the spouse of, partner of, or designated donor for that recipient. The physician providing insemination or assisted reproductive technology services shall advise the donor and recipient of the potential medical risks associated with receiving sperm from a reactive donor. The donor and the recipient shall sign a document affirming that each comprehends the potential medical risks of using sperm from a reactive donor for the proposed procedure and that each consents to it. Copies of the document shall be placed in the medical records of the donor and the recipient.
- (3) (A) Sperm whose donor has tested reactive for syphilis may be used for the purposes of insemination or assisted reproductive technology only after the donor has been treated for syphilis. Sperm whose donor has tested reactive for hepatitis B may be used for the purposes of insemination or assisted reproductive technology only after the recipient has been vaccinated against hepatitis B.  
  
(B) (i) Sperm whose donor has tested reactive for HIV or HTLV may be used for the purposes of insemination or assisted reproductive technology for a recipient testing negative for HIV or HTLV only after the donor's sperm has been effectively processed to minimize the infectiousness of the sperm for that specific donation and where informed and mutual consent has occurred.  
  
(ii) Not later than January 1, 2014, the department shall adopt regulations regulating facilities that perform sperm processing, pursuant to this subparagraph, that prescribe standards for the handling and storage of sperm samples of carriers of HIV, HTLV, or any other virus as deemed appropriate by the department. The department may propose to adopt, as initial regulations, the recommendations made within the "Guidelines for Reducing Risk of Viral Transmission During Fertility Treatment" as published by the American Society for Reproductive Medicine. Notice of the department's proposed adoption of the regulations shall be posted on the department's Internet Web site for at least 45 days. Public comment shall be accepted by the department for at least 30 days after the conclusion of the 45-day posting period. If a member of the public requests a public hearing during the 30-day comment period, the hearing shall be held prior to the adoption of the regulations. If no member of the public requests a public hearing, the regulations shall be deemed adopted at the conclusion of the 30-day comment period. Comments received shall be considered prior to the adoption of the final initial regulations. The department may modify any guidance published by the American Society for Reproductive Medicine. Adoption of initial regulations by the department pursuant to this subdivision shall not be subject to the rulemaking requirements of Chapter 3. 5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code and written responses to public comments shall not be required. Updates to the regulations shall be adopted pursuant to the same process. Until the department adopts these regulations, facilities that perform sperm processing pursuant to this section shall follow facility and sperm processing guidelines for the reduction of viral transmission developed by the American Society for Reproductive Medicine. Nothing in this section shall prevent the department from monitoring and inspecting facilities that process sperm to ensure adherence to the regulations, or, until regulations are adopted, to the guidelines set forth by the American Society for Reproductive Medicine.

(iii) Prior to insemination or other assisted reproductive technology services, the physician providing the services shall inform the recipient of sperm from a spouse, partner, or designated donor who has tested reactive for HIV or HTLV of all of the following:

- (I) That sperm processing may not eliminate all of the risks of HIV or HTLV transmission.
- (II) That the sperm may be tested to determine whether or not it is reactive for HIV or HTLV.
- (III) That the recipient must provide documentation to the physician providing insemination or assisted reproductive technology services prior to treatment that she has established an ongoing relationship with another physician to provide for her medical care during and after completion of fertility services.
- (IV) The recommendations made within the "Guidelines for Reducing the Risk of Viral Transmission During Fertility Treatment" published by the American Society for Reproductive Medicine regarding followup testing for HIV and HTLV after use of sperm from an HIV or HTLV reactive donor and have the recommendations regarding followup testing be documented in the recipient's medical record.

(iv) The physician providing insemination or assisted reproductive technology services shall also verify, and document in the recipient's medical record, that the donor of sperm who tests reactive for HIV or HTLV is under the care of a physician managing the HIV or HTLV.

(v) The physician providing insemination or assisted reproductive technology services shall recommend to the physician who will be providing ongoing care to the recipient recommended followup testing for HIV and HTLV according to the "Guidelines for Reducing the Risk of Viral Transmission During Fertility Treatment" published by the American Society for Reproductive Medicine, which shall be documented in the recipient's medical record.

(vi) In the event that the recipient becomes HIV or HTLV positive, the physician assuming ongoing care of the recipient shall treat or provide information regarding referral to a physician who can provide ongoing treatment of the HIV or HTLV.

(4) A recipient of sperm donated by a sexually intimate partner of the recipient for reproductive use may waive a second or repeat testing of that donor if the recipient is informed of the donor testing requirements of this section and signs a written waiver. For purposes of this paragraph, "sexually intimate partner of the recipient" includes a known or designated donor to whose sperm the recipient has previously been exposed in a nonmedical setting in an attempt to conceive.

(d) Subdivision (a) shall not apply to the transplantation of tissue from a donor who has not been tested or, with the exception of HIV and HTLV, has been found reactive for the infectious diseases listed in subdivision (a) or for which the department has, by regulation, required additional screening tests, if both of the following conditions are satisfied:

(1) The physician and surgeon performing the transplantation has determined any one or more of the following:

- (A) Without the transplantation the intended recipient will most likely die during the period of time necessary to obtain other tissue or to conduct the required tests.
- (B) The intended recipient already is diagnosed with the infectious disease for which the donor has tested positive.

- (C) The symptoms from the infectious disease for which the donor has tested positive will most likely not appear during the intended recipient's likely lifespan after transplantation with the tissue or may be treated prophylactically if they do appear.
- (2) Consent for the use of the tissue has been obtained from the recipient, if possible, or if not possible, from a member of the recipient's family, or the recipient's legal guardian. For purposes of this section, "family" shall mean spouse, adult son or daughter, either parent, adult brother or sister, or grandparent.
- (e) The penalties of Section 1621.5 shall not apply to a sperm donor covered under subdivision (c).
- (f) Human breast milk from donors who test reactive for agents of viral hepatitis (HBV and HCV), HTLV, HIV, or syphilis shall not be used for deposit into a milk bank for human ingestion in California.

## **COLORADO**

### **CO ST § 17-1-115.5. Prison sexual assault prevention program**

- (1) The department shall develop, with respect to sexual assaults that occur in correctional facilities operated by or pursuant to a contract with the department, policies and procedures to:
  - (a) Require disciplinary action for employees who fail to report incidences of sexual assault to the inspector general appointed pursuant to section 17-1-103.8;
  - (b) Require the inspector general or the department of corrections investigator, whichever is appropriate, after completing an investigation for sexual assault, to submit the findings to the district attorney with jurisdiction over the facility in which the alleged sexual assault occurred;
  - (c) Prohibit retaliation and disincentives for reporting sexual assaults;
  - (d) Provide, in situations in which there is reason to believe that a sexual assault has occurred, reasonable and appropriate measures to ensure victim safety by separating the victim from the assailant, if known;
  - (e) Ensure the confidentiality of prison rape complaints and protection of inmates who make complaints of prison rape;
  - (f) Provide acute trauma care for sexual assault victims, including but not limited to treatment of injuries, HIV/AIDS prophylactic measures, and testing for sexually transmitted diseases;
  - (g) Provide, at intake and periodically thereafter, department-approved, easy-to-understand information developed by the department on sexual assault prevention, treatment, reporting, and counseling in consultation with community groups with expertise in sexual assault prevention, treatment, reporting, and counseling;
  - (h) Provide sexual-assault-specific training to department mental health professionals and all employees who have direct contact with inmates regarding treatment and methods of prevention and investigation;
  - (i) Provide confidential mental health counseling for victims of sexual assault;
  - (j) Monitor victims of sexual assault for suicidal impulses, post-traumatic stress disorder, depression, and other mental health consequences resulting from the sexual assault; and
  - (k) Require termination of an employee who engages in a sexual assault on or sexual conduct with an inmate consistent with constitutional due process protections and state personnel laws and rules.
- (2) Investigation of a sexual assault shall be conducted by investigators trained in the investigation of sex crimes. The investigation shall include, but need not be limited to, use of forensic rape kits, questioning of suspects and witnesses, and gathering and preserving relevant evidence.
- (3) The department shall annually report the data that it is required to compile and report to the federal bureau of justice statistics as required by the federal "Prison Rape Elimination Act of 2003", Pub.L. 108-79, as amended, 1 to the judiciary committees of the house of representatives and the senate, or any successor committees.

### **CO ST § 25-1-122. Named reporting of certain diseases and...**

- (1) With respect to investigations of epidemic and communicable diseases, morbidity and mortality, cancer in connection with the statewide cancer registry, environmental and chronic diseases, sexually transmitted infections, tuberculosis, and rabies and mammal bites, the board has the authority to require reporting, without patient consent, of occurrences of those diseases and conditions by any person having knowledge

of such to the state department of public health and environment and county, district, and municipal public health agencies, within their respective jurisdictions. Any required reports shall contain the name, address, age, sex, and diagnosis and such other relevant information as the board determines is necessary to protect the public health. The board shall set the manner, time period, and form in which such reports are to be made. The board may limit reporting for a specific disease or condition to a particular region or community or for a limited period of time. Nothing in this subsection (1) shall be construed to apply to cases of AIDS, HIV-related illness, or HIV infection, which shall be governed solely by the reporting requirements set forth in part 14 of article 4 of this title.

- (2) When investigating diseases and conditions pursuant to subsection (1) of this section, authorized personnel of the state department of public health and environment and county, district, and municipal public health agencies, within their respective jurisdictions, may, without patient consent, inspect, have access to, and obtain information from pertinent patient medical, coroner, and laboratory records in the custody of all medical practitioners, veterinarians, coroners, institutions, hospitals, agencies, laboratories, and clinics, whether public or private, which are relevant and necessary to the investigation. Review and inspection of records shall be conducted at reasonable times and with such notice as is reasonable under the circumstances. Under no circumstances may personnel of the state department of public health and environment or county, district, or municipal public health agencies, within their local jurisdictions, have access pursuant to this section to any medical record that is not pertinent, relevant, or necessary to the public health investigation. Nothing in this subsection (2) shall be construed to apply to cases of AIDS, HIV-related illness, or HIV infection, which shall be governed solely by the requirements relating to access to records and the release of information as set forth in part 14 of article 4 of this title.
- (3) Any report or disclosure made in good faith pursuant to subsection (1) or (2) of this section shall not constitute libel or slander or a violation of any right of privacy or privileged communication.
- (4) Reports and records resulting from the investigation of epidemic and communicable diseases, environmental and chronic diseases, reports of morbidity and mortality, reports of cancer in connection with the statewide cancer registry, and reports and records resulting from the investigation of sexually transmitted infections, tuberculosis, and rabies and mammal bites held by the state department of public health and environment or county, district, or municipal public health agencies shall be strictly confidential. Such reports and records shall not be released, shared with any agency or institution, or made public, upon subpoena, search warrant, discovery proceedings, or otherwise, except under any of the following circumstances:
  - (a) Release may be made of medical and epidemiological information in a manner such that no individual person can be identified.
  - (b) Release may be made of medical and epidemiological information to the extent necessary for the treatment, control, investigation, and prevention of diseases and conditions dangerous to the public health; except that every effort shall be made to limit disclosure of personal identifying information to the minimal amount necessary to accomplish the public health purpose.
  - (c) Release may be made to the person who is the subject of a medical record or report with written authorization from such person.
  - (d) An officer or employee of the county, district, or municipal public health agency or the state department of public health and environment may make a report of child abuse to agencies responsible for receiving or investigating reports of child abuse or neglect in accordance with the applicable provisions of the "Child Protection Act of 1987" set forth in part 3 of article 3 of title 19,

C.R.S. However, in the event a report is made by the state department of public health and environment, only the following information shall be included in the report:

- (I) The name, address, and sex of the child;
- (II) The name and address of the person responsible for the child;
- (III) The name and address of the person who is alleged to be responsible for the suspected abuse or neglect, if known; and
- (IV) The general nature of the child's injury.

(e) Medical and epidemiological information may be released to a peace officer as described in section 16-2.5-101, C.R.S., the federal bureau of investigation, a federal law enforcement agency as designated by the United States attorney for the district of Colorado, or any prosecutor to the extent necessary for any investigation or prosecution related to bioterrorism; except that reasonable efforts shall be made to limit disclosure of personal identifying information to the minimal amount necessary to accomplish the law enforcement purpose. For purposes of this paragraph (e), "bioterrorism" means the intentional use of, attempted use of, conspiracy to use, or solicitation to use microorganisms or toxins of biological origin or chemical or radiological agents to cause death or disease among humans or animals.

- (5) No officer or employee or agent of the state department of public health and environment or county, district, or municipal public health agency shall be examined in any judicial, executive, legislative, or other proceeding as to the existence or content of any individual's report obtained by such department pursuant to subsection (1) or (2) of this section without that individual's consent. However, this provision shall not apply to individuals who are under isolation or quarantine, school exclusion, or other restrictive action taken pursuant to section 25-1.5-102(1)(c) or part 4, 5, 6, or 9 of article 4 of this title.
- (6) Any officer or employee or agent of the state department of public health and environment or a county, district, or municipal public health agency who violates this section by releasing or making public confidential public health reports or records or by otherwise breaching the confidentiality requirements of subsection (4) or (5) of this section commits a class 1 misdemeanor and, upon conviction thereof, shall be punished as provided in section 18-1.3-501(1), C.R.S.
- (7) Nothing in subsections (4) to (6) of this section shall apply to records and reports held by the state or local department of health pursuant to part 14 of article 4 of this title.
- (8) Pursuant to section 25-1-113, any person may seek judicial review of a decision of the board or of the department affecting such person under this section.
- (9) Notwithstanding any other provision of law to the contrary, the department shall administer the provisions of this section regardless of an individual's race, religion, gender, ethnicity, national origin, or immigration status.

#### **CO ST § 25-4-201. Pregnant woman to take blood test**

- (1) Every licensed health care provider authorized to provide care to a pregnant woman in this state for conditions relating to her pregnancy during the period of gestation or at delivery shall take or cause to be taken a sample of blood of the woman at the time of the first professional visit or during the first trimester for testing pursuant to this section. The blood specimen obtained shall be submitted to an approved

laboratory for a standard serological test for syphilis and HIV. Every other person permitted by law to attend pregnant women in this state but not permitted by law to take blood samples shall cause a sample of blood of each pregnant woman to be taken by a licensed health care provider authorized to take blood samples and shall have the sample submitted to an approved laboratory for a standard serological test for syphilis and HIV. A pregnant woman may decline to be tested as specified in this subsection (1), in which case the licensed health care provider shall document that fact in her medical record.

- (2) If a pregnant woman entering a hospital for delivery has not been tested for HIV during her pregnancy, the hospital shall notify the woman that she will be tested for HIV unless she objects and declines the test. If the woman declines to be tested, the hospital shall document that fact in the pregnant woman's medical record.

### **CO ST § 25-4-2502. Definitions**

As used in this part 25, unless the context otherwise requires:

- (1) "Board of health" means the state board of health.
- (2) "Cervical cancer vaccine" or "cervical cancer immunization" means the series of vaccines to prevent cervical cancer as determined by the board of health to be necessary to conform to recognized standard medical practices.
- (3) "Department" means the department of public health and environment.
- (4) "FQHC" means a provider designated as a federally qualified health center pursuant to the provisions of 42 U.S.C. sec. 1396d (l)(2)(B).
- (5) "Local public health agency" means a county or district public health agency established pursuant to section 25-1-506.
- (6) "Program" means the cervical cancer immunization program, created in section 25-4-2503.

### **CO ST § 25-4-2503. Cervical cancer immunization program--rules**

- (1) There is hereby created in the department the cervical cancer immunization program. The department is directed to investigate manners in which the cervical cancer vaccine may be administered in an economical fashion. The state board is authorized to promulgate rules to assist the department in making the vaccine available.
- (2) FQHCs are encouraged to enter into agreements with local public health agencies to administer vaccinations to underinsured female minors through a federally recognized vaccination program for children. If a local public health agency enters into an agreement, the agency shall administer vaccinations, including but not limited to cervical cancer vaccinations, pursuant to the agreement with the FQHC. The department shall pay to a local public health agency the agency's administrative cost for administering a cervical cancer vaccination to an underinsured female entering the sixth grade.

### **CO ST § 25-4-401. Sexually transmitted infections—definitions**

- (1) As used in this part 4:

- (a) "Department" means the department of public health and environment created in section 25-1-102.

- (b) "Health officer" means the executive director of the department, the chief medical officer appointed pursuant to section 25-1-105, or a county or district public health director.
- (c) "Sexually transmitted infection" means syphilis, gonorrhea, and any other type of sexually transmitted infection designated by the state board by rule as contagious, upon making a finding that the particular sexually transmitted infection is contagious; except that cases of AIDS, HIV-related illness, and HIV infections shall be governed solely by the requirements of part 14 of this article.
- (d) "State board" means the state board of health created in section 25-1-103.

- (2) Sexually transmitted infections are declared to be contagious, sexually transmitted, and dangerous to the public health.
- (3) It is unlawful for any person who has knowledge or reasonable grounds to suspect that he or she is infected with a sexually transmitted infection to willfully expose to or infect another person with the sexually transmitted infection or to knowingly perform an act that exposes or infects another person to or with a sexually transmitted infection.

### **CO ST § 25-4-402. Sexually transmitted infections reported--physician's...**

- (1) Any physician, intern, or other person who makes a diagnosis in, prescribes for, or treats a sexually transmitted infection and any superintendent or manager of a state, county, or city hospital, dispensary, or charitable or penal institution in which there is a sexually transmitted infection shall make a report of such infection to the health authorities in accordance with the provisions of section 25-1-122(1).
- (2) Deleted by Laws 1991, S.B.91-142, § 4.
- (3) Reports of sexually transmitted infection shall be made in accordance with the requirements set forth in section 25-1-122(1).
- (4) Any physician, upon consultation by a minor as a patient and with the consent of the minor patient, may make a diagnostic examination for sexually transmitted infection and may prescribe for and treat the minor patient for sexually transmitted infection without the consent of or notification to the parent or guardian of the minor patient or to any other person having custody of or parental responsibilities with respect to the minor patient. In any such case, the physician shall not be civilly or criminally liable for making the diagnostic examination or rendering the treatment, but the immunity from liability shall not apply to any negligent acts or omissions of the physician.

### **CO ST § 25-4-404. Examination of suspected cases**

- (1) Health officers or their authorized assistants or deputies within their respective jurisdictions are directed, when in their judgment it is necessary to protect the public health, to:
  - (a) Require a person reasonably suspected of having a sexually transmitted infection to be examined and to detain the person until the results of the examination are known;
  - (b) Require the examiner to give a written report of the examination to the confining health officer;
  - (c) Require persons with sexually transmitted infections to report for treatment to a qualified physician and continue treatment until cured; and
  - (d) Isolate persons with sexually transmitted infections.

- (2) The examination and treatment of any person with a sexually transmitted infection shall be conducted by a qualified physician of the person's own choice, but, if the person is unable to retain a private physician, he or she shall submit to examination and treatment provided at public expense.
- (3) It is the duty of all health officers to investigate sources of sexually transmitted infection, to cooperate with the proper officials whose duty it is to enforce laws directed against prostitution, and otherwise to use every proper means for the repression of prostitution.

#### **CO ST § 25-4-405. Examination of persons confined**

(1) All persons who are confined, detained, or imprisoned in any state, county, or city hospital or institution for persons with mental illness, any home for dependent children, any reformatory or prison, or any private or charitable institution where any person may be confined, detained, or imprisoned by order of court in this state shall be examined for and, if infected, treated for sexually transmitted infections by the health authorities having jurisdiction. The managing authorities of any such institutions are directed to make available to the health authorities such portion of their respective institutions as may be necessary for a clinic or hospital, wherein all persons who may be confined or detained or imprisoned in any such institution and who are infected with sexually transmitted infections may be treated in a manner as prescribed by the appropriate health officer.

(2) Deleted by Laws 2009, Ch. 112, § 9, eff. April 9, 2009.

#### **CO ST § 25-4-406. Rules--provision of services**

- (1) The department, through the state board, shall adopt rules it deems necessary to carry out the provisions of this part 4, including rules providing for the control and treatment of persons isolated under section 25-4-405 and other rules not in conflict with this part 4 that the department deems advisable concerning the control of sexually transmitted infection and the care, treatment, and isolation of persons with sexually transmitted infections. The rules shall be binding upon all public health agencies, health officers, and other persons affected by this part 4 and shall have the force and effect of law.
- (2) Notwithstanding any other provision of this part 4 to the contrary, programs and services that provide for the investigation, identification, testing, preventive care, or treatment of sexually transmitted infections shall be available to a person regardless of his or her race, religion, gender, sexual orientation, ethnicity, national origin, or immigration status.

#### **CO ST § 25-4-408. Distribution of information**

The department shall prepare, for free distribution among the residents of the state, printed information and instructions concerning the dangers of sexually transmitted infections, their prevention, and the necessity for treatment. It is the duty of every physician who, during the course of an examination, discovers the existence of a sexually transmitted infection or who treats a person for a sexually transmitted infection to inform the person about the measures for preventing the spread of the infection and the necessity for treatment until cured, when appropriate.

## CONNECTICUT

### CT ST § 17b-278b. Medical assistance for breast and cervical cancer

- (a) The Commissioner of Social Services shall provide coverage under the Medicaid program in accordance with Public Law 106-354 to women diagnosed with breast or cervical cancer. The commissioner shall seek any federal waivers or amend the state Medicaid plan as necessary in order to secure federal reimbursement for the costs of providing coverage under the Medicaid program to such women. Such coverage shall not be dependent on the available income or assets of an applicant.
- (b) To qualify for medical assistance under this section, a woman shall: (1) Have been screened for breast or cervical cancer under the Centers for Disease Control and Prevention's National Breast and Cervical Cancer Early Detection Program and found to be in need of treatment for breast or cervical cancer, including a precancerous condition of the breast or cervix; (2) not otherwise have creditable coverage, as defined in 42 USC 300gg(c); (3) not have attained the age of sixty-five years; (4) not be eligible under any mandatory Medicaid eligibility group; and (5) be a resident of this state and a United States citizen or a qualified alien, as defined in Section 431 of Public Law 104-193.
- (c) The commissioner shall deem an applicant who has been determined eligible for medical assistance under this section as having been eligible for up to three months prior to the month in which an application was filed if the requirements in subsection (b) of this section were met during such three-month period. An individual determined eligible for medical assistance under this section shall remain eligible until the individual's course of treatment is completed or until eligibility criteria set forth in subsection (b) of this section are no longer met. The commissioner shall establish procedures for the granting of presumptive eligibility in order to ensure prompt access to services for applicants.
- (d) The Commissioner of Social Services shall implement policies and procedures necessary to carry out the provisions of this section while in the process of adopting such policies and procedures in regulation form in accordance with chapter 54, 1 provided notice of intention to adopt the regulations is published in the Connecticut Law Journal within twenty days of implementation of such policies and procedures. Such policies and procedures shall be valid until the time final regulations are effective.

### CT ST § 19a-216. Examination or treatment of minor for venereal...

- (a) Any municipal health department, state institution or facility, licensed physician or public or private hospital or clinic, may examine or provide treatment for venereal disease for a minor, if the physician or facility is qualified to provide such examination or treatment. The consent of the parents or guardian of the minor shall not be a prerequisite to the examination or treatment. The physician in charge or other appropriate authority of the facility or the licensed physician concerned shall prescribe an appropriate course of treatment for the minor. The fact of consultation, examination or treatment of a minor under the provisions of this section shall be confidential and shall not be divulged by the facility or physician, including the sending of a bill for the services to any person other than the minor, except for purposes of reports under section 19a-215, and except that, if the minor is not more than twelve years of age, the facility or physician shall report the name, age and address of that minor to the Commissioner of Children and Families or the commissioner's designee who shall proceed thereon as in reports under section 17a-101g.
- (b) A minor shall be personally liable for all costs and expenses for services afforded such minor at his or her request under this section.

## CT ST § 19a-216a. Examination and treatment of persons at...

- (a) For the purposes of this section: (1) “Communicable disease control clinic” means a state or local health department funded clinic established for the purpose of providing readily accessible treatment of persons with possible sexually-transmitted diseases and their sexual contacts or persons with possible tuberculosis and their contacts. (2) “Epidemiologic information” means the names of possible human sources of infection or subsequent transmission from a person with a sexually-transmitted disease or tuberculosis.
- (b) The personal medical records of persons examined or treated in a communicable disease control clinic shall be held strictly confidential by the local director of health and his authorized agents and shall not be released or made public or be subject to discovery proceedings, except release may be made of personal medical information, excluding epidemiologic information under the following circumstances:
- (1) For statistical purposes in such form that no individual person can be identified;
  - (2) With the informed consent of all persons identified in the records;
  - (3) To health care providers in a medical emergency to the extent necessary to protect the health or life of the person who is the subject;
  - (4) To health care providers and public health officials in the states or localities authorized to receive such information by other state statute or regulation to the extent necessary to protect the public health or safety by permitting the continuation of service or public health efforts directed to disease prevention and control;
  - (5) To any agency authorized to receive reports of abuse or neglect of minors not more than twelve years of age pursuant to section 19a-216. If any information is required to be disclosed in a court proceeding involving abuse or neglect, the information shall be disclosed in camera and sealed by the court upon conclusion of the proceeding; or
  - (6) By court order as necessary to enforce any provision of the general statutes or state regulations or local ordinances pertaining to public health and safety provided the order explicitly finds each of the following: (A) The information sought is material, relevant and reasonably calculated to be admissible evidence during the legal proceeding; (B) the probative value of the evidence outweighs the individual's and the public's interest in maintaining its confidentiality; (C) the merits of the litigation cannot be fairly resolved without the disclosure; and (D) the evidence is necessary to avoid substantial injustice to the party seeking it and the disclosure will result in no significant harm to the person examined or treated. Before making such findings, the court may examine the information in camera. If the information meets the test of necessary evidence as listed in this subdivision, it shall be disclosed only in camera and shall be sealed by the court on conclusion of the proceeding.
- (c) Except as provided in subsection (b) of this section, no local health department official or employee shall be examined in any court proceeding, civil or criminal, or before any other tribunal, board, agency or person as to the existence or contents of pertinent records, reports or information of a person examined or treated for a sexually-transmitted disease by a state or local health department, or as to the existence or contents of such records, reports or information received by such department from a private physician or private health facility, without the written consent of the individual who is the subject of the records, reports or information.
- (d) Information released under the provisions of this section shall not be rereleased unless the rerelease is made in accordance with the provisions of this section.

- (e) Any person who violates any provision of this section shall be fined not more than one thousand dollars. No provision of this section shall be deemed to supersede section 19a-584.

### **CT ST § 19a-266. Breast and cervical cancer early detection and...**

- (a) For purposes of this section:

- (1) "Breast cancer screening and referral services" means necessary breast cancer screening services and referral services for a procedure intended to treat cancer of the human breast, including, but not limited to, surgery, radiation therapy, chemotherapy, hormonal therapy and related medical follow-up services.
- (2) "Cervical cancer screening and referral services" means necessary cervical cancer screening services and referral services for a procedure intended to treat cancer of the human cervix, including, but not limited to, surgery, radiation therapy, cryotherapy, electrocoagulation and related medical follow-up services.
- (3) "Unserved or underserved populations" means women who are: (A) At or below two hundred fifty per cent of the federal poverty level for individuals; (B) without health insurance that covers breast cancer screening mammography or cervical cancer screening services; and (C) twenty-one to sixty-four years of age.

- (b) There is established, within existing appropriations, a breast and cervical cancer early detection and treatment referral program, within the Department of Public Health, to (1) promote screening, detection and treatment of breast cancer and cervical cancer among unserved or underserved populations, (2) educate the public regarding breast cancer and cervical cancer and the benefits of early detection, and (3) provide counseling and referral services for treatment.

- (c) The program shall include, but not be limited to:

- (1) Establishment of a public education and outreach initiative to publicize breast cancer and cervical cancer early detection services and the extent of coverage for such services by health insurance; the benefits of early detection of breast cancer and the recommended frequency of screening services, including clinical breast examinations and mammography; and the medical assistance program and other public and private programs and the benefits of early detection of cervical cancer and the recommended frequency of pap tests;
  - (2) Development of professional education programs, including the benefits of early detection of breast cancer and the recommended frequency of mammography and the benefits of early detection of cervical cancer and the recommended frequency of pap tests;
  - (3) Establishment of a system to track and follow up on all women screened for breast cancer and cervical cancer in the program. The system shall include, but not be limited to, follow-up of abnormal screening tests and referral to treatment when needed and tracking women to be screened at recommended screening intervals;
  - (4) Assurance that all participating providers of breast cancer and cervical cancer screening are in compliance with national and state quality assurance legislative mandates.
- (d) The Department of Public Health shall provide unserved or underserved populations, within existing appropriations and through contracts with health care providers: (1) Clinical breast examinations, screening mammograms and pap tests, as recommended in the most current breast and cervical

cancer screening guidelines established by the United States Preventive Services Task Force, for the woman's age and medical history; and (2) a pap test every six months for women who have tested HIV positive.

### **CT ST § 20-14e. Dispensing of drugs. Prescribing and dispensing of oral...**

- (a) A drug dispensed by a prescribing practitioner shall be personally dispensed by the prescribing practitioner and the dispensing of such drug shall not be delegated except that, in emergency departments of acute care hospitals licensed under chapter 368v, 1 the tasks related to dispensing such drug may be carried out by a nurse licensed pursuant to chapter 378 2 under the supervision of the prescribing practitioner.
- (b) A patient's medical record shall include a complete record of any drug dispensed by the prescribing practitioner.
- (c) A prescribing practitioner dispensing a drug shall package the drug in containers approved by the federal Consumer Product Safety Commission, unless requested otherwise by the patient, and shall label the container with the following information: (1) The full name of the patient; (2) the prescribing practitioner's full name and address; (3) the date of dispensing; (4) instructions for use; and (5) any cautionary statements as may be required by law.
- (d) Professional samples dispensed by a prescribing practitioner shall be exempt from the requirements of subsection (c) of this section.
- (e) Notwithstanding the provisions of this section or chapter 400j, 3 a prescribing practitioner who diagnoses a chlamydia or gonorrhea infection in a patient may prescribe and dispense oral antibiotic drugs to such patient and the patient's partner or partners in order to prevent further infection without a physical examination of such partner or partners. A prescribing practitioner who prescribes or dispenses oral antibiotic drugs to the partner or partners of a patient diagnosed with a chlamydia or gonorrhea infection shall, in accordance with the provisions of this subsection, not be deemed to have violated the prescribing practitioner's standard of care for such prescribing or dispensing drugs. The Commissioner of Public Health, in consultation with the Commissioner of Consumer Protection, may adopt regulations, in accordance with chapter 54, 4 to implement the provisions of this subsection.
- (f) A prescribing physician or surgeon may dispense and sell contact lenses that contain a drug, as defined in section 20-571, and such physician or surgeon shall be exempt from the requirements of subsection (c) of this section when dispensing or selling contact lenses. As used in this subsection, "physician" means a person holding a license issued pursuant to this chapter, except a homeopathic physician.
- (g) A licensed optometrist, authorized to practice advanced optometric care pursuant to section 20-127, who dispenses contact lenses that contain ocular agents-T, as defined in subdivision (5) of subsection (a) of section 20-127, shall be exempt from the requirements of subsection (c) of this section when dispensing or selling contact lenses.

## **CT ST § 4-106. Treatment of venereal diseases in hospitals receiving state aid**

No hospital which receives appropriations made by the General Assembly and which has facilities reasonably suitable for the treatment of venereal diseases shall refuse to admit for treatment any patient suffering from any such disease.

## **CT ST § 54-102a. Venereal examination and HIV testing of persons...**

- (a) The court before which is pending any case involving a violation of any provision of sections 53a-65 to 53a-89, inclusive, may, before final disposition of such case, order the examination of the accused person or, in a delinquency proceeding, the accused child to determine whether or not the accused person or child is suffering from any venereal disease, unless the court from which such case has been transferred has ordered the examination of the accused person or child for such purpose, in which event the court to which such transfer is taken may determine that a further examination is unnecessary.
- (b) Notwithstanding the provisions of section 19a-582, the court before which is pending any case involving a violation of section 53-21 or any provision of sections 53a-65 to 53a-89, inclusive, that involved a sexual act, as defined in section 54-102b, may, before final disposition of such case, order the testing of the accused person or, in a delinquency proceeding, the accused child for the presence of the etiologic agent for acquired immune deficiency syndrome or human immunodeficiency virus, unless the court from which such case has been transferred has ordered the testing of the accused person or child for such purpose, in which event the court to which such transfer is taken may determine that a further test is unnecessary. If the victim of the offense requests that the accused person or child be tested, the court may order the testing of the accused person or child in accordance with this subsection and the results of such test may be disclosed to the victim. The provisions of sections 19a-581 to 19a-585, inclusive, and section 19a-590, except any provision requiring the subject of an HIV-related test to provide informed consent prior to the performance of such test and any provision that would prohibit or limit the disclosure of the results of such test to the victim under this subsection, shall apply to a test ordered under this subsection and the disclosure of the results of such test.
- (c) A report of the result of such examination or test shall be filed with the Department of Public Health on a form supplied by it. If such examination discloses the presence of venereal disease or if such test discloses the presence of the etiologic agent for acquired immune deficiency syndrome or human immunodeficiency virus, the court may make such order with reference to the continuance of the case or treatment or other disposition of such person as the public health and welfare require. Such examination or test shall be conducted at the expense of the Department of Public Health. Any person who fails to comply with any order of any court under the provisions of this section shall be guilty of a class C misdemeanor.

## **DISTRICT OF COLUMBIA**

### **DC CODE § 7-1651.01. Definitions.**

For the purposes of this chapter, the term:

- (1) “CDC” means the Centers for Disease Control and Prevention.
- (2) “HPV” means the human papillomavirus.

### **DC CODE § 7-1651.02. Human papillomavirus public education campaign.**

By January 1, 2008, the Mayor shall initiate a public information campaign, including multiple HPV vaccine education forums in each ward, aimed at educating the public on:

- (1) The connection between HPV and cervical cancer;
- (2) The importance of protecting oneself against HPV infection;
- (3) The value of screening for cervical cancer through regular pap tests; and
- (4) The effectiveness and risks of the HPV vaccine.

### **DC CODE § 7-1651.04. Human papillomavirus vaccination program.**

(a) The Mayor shall:

- (1) By January 1, 2009, consistent with the standards set forth by the federal Centers for Disease Control and Prevention (“CDC”), establish and implement a HPV vaccination program that includes a requirement that the Department of Health disseminate to all parents or legal guardians information about HPV, including the benefits and risks of the HPV vaccine;
- (2) Require all communications from the Department of Health on the HPV vaccination program to prominently feature information pertaining to the ability of parents or guardians to opt out of the program;
- (3) Extend, by rulemaking, the HPV vaccination program requirements to males, consistent with standards set forth by the CDC; and
- (4) Require the Department of Health to develop reporting requirements for the collection and analysis of HPV vaccination data.

(b) (1) By the beginning of the 2009 school year, and of every school year thereafter, the parent or legal guardian of a female child enrolling in grade 6 for the first time at a school in the District of Columbia shall be required to submit certification:

- (A) That the child has received the HPV vaccine; or
- (B) That the child has not received the HPV vaccine because:

- i. The parent or legal guardian has objected in good faith and in writing to the chief official of the school that the vaccination would violate his or her religious beliefs;

- ii. The child's private physician, his or her representative, or the public health authority has provided the school written certification that the vaccination is medically inadvisable; or
- iii. The parent or legal guardian, in his or her discretion, has elected to opt out of the HPV vaccination program, for any reason, by signing a form prepared by the Department of Health that states the parent or legal guardian has been informed of the HPV vaccination requirement and has elected not to participate.

(2) The form, provided pursuant to paragraph (1)(B)(iii) of this subsection, shall include the parent or legal guardian's name, address, and telephone number and the name of the child. The form shall be available in English, Spanish, and any other language that the Mayor considers culturally appropriate.

## DELAWARE

### DE ST TI 16 § 701. Definitions

- (a) “Director” shall mean the Director of the Division of Public Health or the Director’s authorized deputies within their respective jurisdictions.
- (b) “Health care professional” shall mean any physician, nurse, laboratory or blood bank technologist or technician, and any others whose professions involve the diagnosis, care or treatment of persons or the testing of bodily specimens for the purpose of finding evidence of disease.
- (c) “Health facility” shall mean a hospital, nursing home, clinic, blood bank, blood center, sperm bank, laboratory or other health care institution whether public or private.
- (d) “Invasive medical procedures” shall mean surgical entry into tissues, cavities or organs.
- (e) “Sexually transmitted diseases” (formerly referred to as “venereal diseases”), abbreviated STD, shall be designated by the Department of Health and Social Services as reportable through rules and regulations published by the Department of Health and Social Services pursuant to § 706 of this title upon finding that such diseases:
  - (1) Cause significant morbidity and mortality; and
  - (2) Can be screened, diagnosed and treated in a public health control program, or if not, are a major public health concern such that surveillance of disease occurrence is in the public interest.
- (f) Any person falling into 1 or more of the following categories is designated as a “suspect”:
  - (1) A person having positive laboratory or clinical findings of an STD;
  - (2) A person in whom epidemiologic evidence indicates an STD may exist; and
  - (3) A person identified as a sexual contact of an STD case.

### DE ST TI 16 § 702. Reporting of STDs

- (a) A physician or any other health care professional who diagnoses, suspects or treats a reportable STD and every administrator of a health facility or state, county or city prison in which there is a case of a reportable STD shall report such case to the Division of Public Health specifying the infected person's name, address, age, sex and race as well as the date of onset, name and stage of disease, type and amount of treatment given and the name and address of the submitting health professional within 1 working day. Certain STDs, which shall be identified by the Department of Health and Social Services, shall be reported in number only and in a manner determined by the Department of Health and Social Services.
- (b) Any person who is in charge of a clinical or hospital laboratory, blood bank, mobile unit or other facility in which a laboratory examination of any specimen derived from a human body yields microscopical, cultural, serological or other evidence suggestive of a reportable STD shall notify the Division of Public Health of its findings within 1 working day. The Department of Health and Social Services may require the notification to contain any information necessary to achieve the purposes of this chapter including the tests performed and the results, the name, age, race, sex and address of the persons from whom the specimen was obtained, the reason why the test was performed and the name and address of the physician and that of

the processing clinical laboratory. Certain STDs, which shall be identified by the Department of Health and Social Services, shall be reported in number only and in a manner determined by the Department of Health and Social Services.

- (c) The Department of Health and Social Services shall prescribe the form and method of reporting to the Division of Public Health which may be in writing, by telephone, by electronic data transmission or by other means.
- (d) All reports and notifications made pursuant to this section are confidential and protected from release except under the provisions of §§ 710 and 711 of this title. From information received from laboratory notifications, the Division of Public Health may contact attending physicians. The Division of Public Health shall inform the attending physician, if the notification indicates the person has an attending physician, before contacting a person from whom a specimen was obtained. However, if delays resulting from informing the physician may enhance the spread of the STD, or otherwise endanger the health of either individuals or the public, the Division of Health may contact the person without first informing the attending physician.
- (e) Any laboratory which examines specimens for the purpose of finding evidence of an STD shall permit the Division of Public Health to examine the records of said laboratory in order to evaluate compliance with this section.

### **DE ST TI 16 § 703. Examination, investigation and treatment of suspected persons**

The Director shall, when in the Director's own judgment it is necessary to protect the public health, make examinations of persons reasonably suspected of being infected with an STD of a communicable nature; examine medical records of suspect or diagnosed cases which may be maintained by a health facility or health care professional; require persons infected with an STD of a communicable nature to report for treatment to a health care professional, public or private, qualified to provide treatment and continue treatment until cured, if possible, and also, when in the Director's own judgment it is necessary to protect the public health, may issue an order seeking to examine, isolate or quarantine persons infected with an STD of a communicable nature or persons suspected of being infected with an STD.

### **DE ST TI 16 § 708. Prenatal standard tests for syphilis, gonorrhea, chlamydia**

- (a) Every health care professional qualified to attend a pregnant woman in this State during gestation shall take or cause to be taken suitable specimens of such woman and submit such specimens to an approved laboratory for standard tests for syphilis and gonorrhea, chlamydia and other such tests for STDs as may be designated by the Department of Health and Social Services. Every other person permitted by law to attend upon pregnant women in the State but not permitted by law to take such specimens shall cause such specimens of such pregnant woman to be taken by a qualified health care professional and submitted to an approved laboratory for standard tests for gonorrhea, syphilis and chlamydia and other such tests for STDs as may be designated by the Department of Health and Social Services. The specimens shall be taken at the time of the 1st examination relating to the current pregnancy and a 2nd specimen during the 3rd trimester of pregnancy which is in addition to or exclusive of the test taken at delivery. Every pregnant woman shall permit the specimens to be taken by a qualified health care professional as herein provided. However, the Director or the Director's authorized deputy within the county wherein any person affected by this section resides may waive the requirements of this section if the Director or deputy is satisfied by

written affidavit or other notarized written proof that the tests required by this section are contrary to the tenets and practices of the religious teachings of which the applicant is an adherent, and that the public health and welfare would not be injuriously affected by such waiver.

- (b) The term “approved laboratory” means a laboratory approved for this purpose by the Department of Health and Social Services. Standard tests for syphilis, chlamydia and gonorrhea are ones recognized as such by the Department of Health and Social Services.
- (c) The laboratory tests required by this section shall be made on request without charge by the Department of Health and Social Services.

### **DE ST TI 16 § 711. Confidentiality of records and information**

All information and records held by the Division of Public Health relating to known or suspected causes of STD, including infection with human immunodeficiency virus (HIV), the virus causing Acquired Immunodeficiency Syndrome (AIDS), shall be strictly confidential. Such information shall not be released or made public upon subpoena or otherwise, except that release may be made under the following circumstances:

- (1) Release is made of medical or epidemiological information for statistical purposes so that no person can be identified;
- (2) Release is made of medical or epidemiological information with the consent of all persons identified in the information released;
- (3) Release is made of medical or epidemiological information to medical personnel, appropriate state agencies, including the Child Death, Near Death and Still Birth Commission, or state courts to the extent required to enforce the provisions of this chapter and related rules and regulations concerning the control and treatment of STDs, or as related to child abuse investigations pursuant to Chapter 9 of this title, or as related to Child Death, Near Death or Still Birth Commission investigations pursuant to subchapter II of Chapter 3 of Title 31;
- (4) Release is made of medical or epidemiological information to medical personnel in a medical emergency to the extent necessary to protect the health or life of the named party; or
- (5) Release is made during the course of civil or criminal litigation to a person allowed access to said records by a court order which is issued in compliance with the following provisions:
  - a. No court of this State shall issue such order unless the court finds that the person seeking the records and information has demonstrated a compelling need for such records which cannot be accommodated by other means. In assessing compelling need, the court shall weigh the need for disclosure against the privacy interest of the subject and the public interest which may be disserved by disclosure which deters future testing and treatment or which may lead to discrimination.
  - b. Pleadings pertaining to disclosure of such records shall substitute a pseudonym for the true name of the subject of the records. The disclosure to the parties of the subject's true name shall be communicated confidentially, in documents not filed with the court.

- c. Before granting any such order, the court shall provide the subject whose records are in question with notice and a reasonable opportunity to participate in the proceedings if the subject is not already a party.
- d. Court proceedings as to disclosure of such records shall be conducted in camera unless the subject agrees to a hearing in open court or unless the court determines that a public hearing is necessary to the public interest and the proper administration of justice.
- e. Upon the issuance of an order to disclose such records, the court shall impose appropriate safeguards against unauthorized disclosure, which shall specify the persons who may have access to the information, the purposes for which the information shall be used, and appropriate prohibitions on future disclosures.

### **DE ST TI 16 § 712. Custodian of records**

No Department of Public Health and Social Services or local health department officer or employee shall be examined in a civil, criminal, special or other proceeding as to the existence or contents of pertinent records for a person examined or treated for an STD or HIV infection by the Division of Public Health, or of the existence or contents of such reports received from a private health care professional or private health facility, without the consent of the person examined and treated for such diseases, except where the information in such records is disclosed pursuant to § 710 or § 711(2), (3) or (5) of this title.

### **DE ST TI 11 § 9023. Payment for forensic medical examinations for victims**

- (a) The cost of a forensic medical examination done for the purpose of gathering evidence that can be used in the prosecution of a sexual offense may be paid from the Victim Compensation Fund.
- (b) "Forensic medical examination" shall be defined as medical diagnostic procedures examining for physical trauma, and determining penetration, force or lack of consent. The cost of the examination shall include collecting all evidence as called for in the sexual offense evidence collection kits and may include any of the following, if done as part of the forensic medical examination:
  - (1) Physician's fees for the collection of the patient history, physical, collection of specimens and treatment for the prevention of venereal disease, including 1 return follow-up visit;
  - (2) Emergency department expenses, including emergency room fees and cost of pelvic tray; and
  - (3) Laboratory expenses for wet mount for sperm, swabs for acid phosphates and ABH antigen; blood typing, serology for syphilis and Hepatitis B; cultures for gonorrhea, chlamydia, trichomonas and other sexually transmitted diseases; pregnancy testing; urinalysis; and any other laboratory test needed to collect evidence that could be used in the prosecution of the offense.
- (c) Hospitals and health care professions shall provide forensic medical examinations free of charge to the victims of sexual offenses. Any hospital or health care professional performing a forensic medical examination shall seek reimbursement for the examination from the patient's insurance carrier, including Medicaid and Medicare, if available. If insurance is unavailable, or does not cover the full costs of the forensic medical examination, the service provider may seek reimbursement from the Compensation Fund. The Agency shall authorize the repayment for reasonable expenses incurred during the forensic medical examination. Such reimbursement shall not exceed a maximum amount to be determined by the Agency. If the hospital or health care professional has recovered from insurance, the Agency shall only

provide compensation sufficient to total the maximum amount provided for in the Agency's rules and regulations.

- (d) The victim of the sexual offense shall not pay any out-of-pocket costs associated with the forensic medical examination and shall not be required to file an application with the Agency. Notwithstanding other language in this chapter, all forensic medical examinations of victims of a sexual offense not covered by insurance shall be paid for through the Victim Compensation Fund and such payment shall be considered full compensation to the hospital or health care professional providing such services.
- (e) In addition to, and at the same time as, any other fine or penalty assessed on any criminal defendant, all defendants convicted of a sexual offense as defined in § 761 of this title shall be assessed an additional fine that shall be used to reimburse the Victim Compensation Fund for forensic medical examination payments. All defendants convicted of sexual offenses shall pay \$50 for each misdemeanor level count for which they are convicted and \$100 for each felony level count for which they are convicted. All fines paid in accordance with this section shall be deposited into the Victims' Compensation Fund.
- (f) Nothing in this section shall preclude victims from applying to the Agency for other costs incurred.

## FLORIDA

### FL ST § 381.003. Communicable disease and AIDS prevention and control

- (1) The department shall conduct a communicable disease prevention and control program as part of fulfilling its public health mission. A communicable disease is any disease caused by transmission of a specific infectious agent, or its toxic products, from an infected person, an infected animal, or the environment to a susceptible host, either directly or indirectly. The communicable disease program must include, but need not be limited to:
- (a) Programs for the prevention and control of tuberculosis in accordance with chapter 392.
  - (b) Programs for the prevention and control of human immunodeficiency virus infection and acquired immune deficiency syndrome in accordance with chapter 384 and this chapter.
  - (c) Programs for the prevention and control of sexually transmissible diseases in accordance with chapter 384.
  - (d) Programs for the prevention, control, and reporting of communicable diseases of public health significance as provided for in this chapter.
  - (e) Programs for the prevention and control of vaccine-preventable diseases, including programs to immunize school children as required by s. 1003.22(3)-(11) and the development of an automated, electronic, and centralized database or registry of immunizations. The department shall ensure that all children in this state are immunized against vaccine-preventable diseases. The immunization registry shall allow the department to enhance current immunization activities for the purpose of improving the immunization of all children in this state.
    - 1. Except as provided in subparagraph 2., the department shall include all children born in this state in the immunization registry by using the birth records from the Office of Vital Statistics. The department shall add other children to the registry as immunization services are provided.
    - 2. The parent or guardian of a child may refuse to have the child included in the immunization registry by signing a form obtained from the department, or from the health care practitioner or entity that provides the immunization, which indicates that the parent or guardian does not wish to have the child included in the immunization registry. The decision to not participate in the immunization registry must be noted in the registry.
    - 3. The immunization registry shall allow for immunization records to be electronically transferred to entities that are required by law to have such records, including schools, licensed child care facilities, and any other entity that is required by law to obtain proof of a child's immunizations.
    - 4. Any health care practitioner licensed under chapter 458, chapter 459, or chapter 464 in this state who complies with rules adopted by the department to access the immunization registry may, through the immunization registry, directly access immunization records and update a child's immunization history or exchange immunization information with another authorized practitioner, entity, or agency involved in a child's care. The information included in the immunization registry must include the child's name, date of birth, address, and any other unique identifier necessary to correctly identify the child; the immunization record, including the date, type of administered vaccine, and vaccine lot number; and the presence or absence of any adverse reaction or contraindication related to the immunization. Information received by the department for the immunization registry retains its status as confidential medical information and the department must maintain the confidentiality of that information as otherwise required by law. A health care practitioner or other agency that obtains information from the immunization registry must

maintain the confidentiality of any medical records in accordance with s. 456.057 or as otherwise required by law.

- (2) The department may adopt, repeal, and amend rules related to the prevention and control of communicable diseases and the administration of the immunization registry. Such rules may include procedures for investigating disease, timeframes for reporting disease, definitions, procedures for managing specific diseases, requirements for followup reports of known or suspected exposure to disease, and procedures for providing access to confidential information necessary for disease investigations. For purposes of the immunization registry, the rules may include procedures for a health care practitioner to obtain authorization to use the immunization registry, methods for a parent or guardian to elect not to participate in the immunization registry, and procedures for a health care practitioner licensed under chapter 458, chapter 459, or chapter 464 to access and share electronic immunization records with other entities allowed by law to have access to the records.

### **FL ST § 381.004. HIV testing**

(1) Definitions.--As used in this section:

- (a) "HIV test" means a test ordered after July 6, 1988, to determine the presence of the antibody or antigen to human immunodeficiency virus or the presence of human immunodeficiency virus infection.
- (b) "HIV test result" means a laboratory report of a human immunodeficiency virus test result entered into a medical record on or after July 6, 1988, or any report or notation in a medical record of a laboratory report of a human immunodeficiency virus test. As used in this section, the term "HIV test result" does not include test results reported to a health care provider by a patient.
- (c) "Significant exposure" means:
1. Exposure to blood or body fluids through needlestick, instruments, or sharps;
  2. Exposure of mucous membranes to visible blood or body fluids, to which universal precautions apply according to the National Centers for Disease Control and Prevention, including, without limitations, the following body fluids:
    - a. Blood.
    - b. Semen.
    - c. Vaginal secretions.
    - d. Cerebro-spinal fluid (CSF).
    - e. Synovial fluid.
    - f. Pleural fluid.
    - f. Peritoneal fluid.
    - g. Pericardial fluid.
    - h. Amniotic fluid.
    - i. Laboratory specimens that contain HIV (e.g., suspensions of concentrated virus); or
  3. Exposure of skin to visible blood or body fluids, especially when the exposed skin is chapped, abraded, or afflicted with dermatitis or the contact is prolonged or involving an extensive area.
- (d) "Preliminary HIV test" means an antibody screening test, such as the enzyme-linked immunosorbent assays (ELISAs) or the Single-Use Diagnostic System (SUDS).
- (e) "Test subject" or "subject of the test" means the person upon whom an HIV test is performed, or the person who has legal authority to make health care decisions for the test subject.

(2) Human immunodeficiency virus testing; informed consent; results; counseling; confidentiality.—

- (a) No person in this state shall order a test designed to identify the human immunodeficiency virus, or its antigen or antibody, without first obtaining the informed consent of the person upon whom the test is being performed, except as specified in paragraph (h). Informed consent shall be preceded by an explanation of the right to confidential treatment of information identifying the subject of the test and the results of the test to the extent provided by law. Information shall also be provided on the fact that a positive HIV test result will be reported to the county health department with sufficient information to identify the test subject and on the availability and location of sites at which anonymous testing is performed. As required in paragraph (3)(c), each county health department shall maintain a list of sites at which anonymous testing is performed, including the locations, phone numbers, and hours of operation of the sites. Consent need not be in writing provided there is documentation in the medical record that the test has been explained and the consent has been obtained.
- (b) Except as provided in paragraph (h), informed consent must be obtained from a legal guardian or other person authorized by law when the person:
1. Is not competent, is incapacitated, or is otherwise unable to make an informed judgment; or 2. Has not reached the age of majority, except as provided in s. 384.30.
- (c) The person ordering the test or that person's designee shall ensure that all reasonable efforts are made to notify the test subject of his or her test result. Notification of a person with a positive test result shall include information on the availability of appropriate medical and support services, on the importance of notifying partners who may have been exposed, and on preventing transmission of HIV. Notification of a person with a negative test result shall include, as appropriate, information on preventing the transmission of HIV. When testing occurs in a hospital emergency department, detention facility, or other facility and the test subject has been released before being notified of positive test results, informing the county health department for that department to notify the test subject fulfills this responsibility.
- (d) A positive preliminary test result may not be revealed to any person except in the following situations:
1. Preliminary test results may be released to licensed physicians or the medical or nonmedical personnel subject to the significant exposure for purposes of subparagraphs (h)10., 11., and 12.
  2. Preliminary test results may be released to health care providers and to the person tested when decisions about medical care or treatment of, or recommendation to, the person tested and, in the case of an intrapartum or postpartum woman, when care, treatment, or recommendations regarding her newborn, cannot await the results of confirmatory testing. Positive preliminary HIV test results may not be characterized to the patient as a diagnosis of HIV infection. Justification for the use of preliminary test results must be documented in the medical record by the health care provider who ordered the test.
  3. The results of rapid testing technologies shall be considered preliminary and may be released in accordance with the manufacturer's instructions as approved by the federal Food and Drug Administration.
  4. Corroborating or confirmatory testing must be conducted as followup to a positive preliminary test. Results shall be communicated to the patient according to statute regardless of the outcome. Except as provided in this section, test results are confidential and exempt from the provisions of s. 119.07(1).

- (e) Except as provided in this section, the identity of any person upon whom a test has been performed and test results are confidential and exempt from the provisions of s. 119.07(1). No person who has obtained or has knowledge of a test result pursuant to this section may disclose or be compelled to disclose the identity of any person upon whom a test is performed, or the results of such a test in a manner which permits identification of the subject of the test, except to the following persons:
1. The subject of the test or the subject's legally authorized representative.
  2. Any person, including third-party payors, designated in a legally effective release of the test results executed prior to or after the test by the subject of the test or the subject's legally authorized representative. The test subject may in writing authorize the disclosure of the test subject's HIV test results to third party payors, who need not be specifically identified, and to other persons to whom the test subject subsequently issues a general release of medical information. A general release without such prior written authorization is not sufficient to release HIV test results.
  3. An authorized agent or employee of a health facility or health care provider if the health facility or health care provider itself is authorized to obtain the test results, the agent or employee participates in the administration or provision of patient care or handles or processes specimens of body fluids or tissues, and the agent or employee has a need to know such information. The department shall adopt a rule defining which persons have a need to know pursuant to this subparagraph.
  4. Health care providers consulting between themselves or with health care facilities to determine diagnosis and treatment. For purposes of this subparagraph, health care providers shall include licensed health care professionals employed by or associated with state, county, or municipal detention facilities when such health care professionals are acting exclusively for the purpose of providing diagnoses or treatment of persons in the custody of such facilities.
  5. The department, in accordance with rules for reporting and controlling the spread of disease, as otherwise provided by state law.
  6. A health facility or health care provider which procures, processes, distributes, or uses:
    - a. A human body part from a deceased person, with respect to medical information regarding that person; or
    - b. Semen provided prior to July 6, 1988, for the purpose of artificial insemination.
  7. Health facility staff committees, for the purposes of conducting program monitoring, program evaluation, or service reviews pursuant to chapters 395 and 766.
  8. Authorized medical or epidemiological researchers who may not further disclose any identifying characteristics or information.
  9. A person allowed access by a court order which is issued in compliance with the following provisions:
    - a. No court of this state shall issue such order unless the court finds that the person seeking the test results has demonstrated a compelling need for the test results which cannot be accommodated by other means. In assessing compelling need, the court shall weigh the need for disclosure against the privacy interest of the test subject and the public interest which may be disserved by disclosure which deters blood, organ, and semen donation and future human immunodeficiency virus-related testing or which may lead to discrimination. This paragraph shall not apply to blood bank donor records.

- b. Pleadings pertaining to disclosure of test results shall substitute a pseudonym for the true name of the subject of the test. The disclosure to the parties of the subject's true name shall be communicated confidentially in documents not filed with the court.
  - c. Before granting any such order, the court shall provide the individual whose test result is in question with notice and a reasonable opportunity to participate in the proceedings if he or she is not already a party.
  - d. Court proceedings as to disclosure of test results shall be conducted in camera, unless the subject of the test agrees to a hearing in open court or unless the court determines that a public hearing is necessary to the public interest and the proper administration of justice.
  - e. Upon the issuance of an order to disclose test results, the court shall impose appropriate safeguards against unauthorized disclosure which shall specify the persons who may have access to the information, the purposes for which the information shall be used, and appropriate prohibitions on future disclosure.
10. A person allowed access by order of a judge of compensation claims of the Division of Administrative Hearings. A judge of compensation claims shall not issue such order unless he or she finds that the person seeking the test results has demonstrated a compelling need for the test results which cannot be accommodated by other means.
  11. Those employees of the department or of child-placing or child-caring agencies or of family foster homes, licensed pursuant to s. 409.175, who are directly involved in the placement, care, control, or custody of such test subject and who have a need to know such information; adoptive parents of such test subject; or any adult custodian, any adult relative, or any person responsible for the child's welfare, if the test subject was not tested under subparagraph (b)2. and if a reasonable attempt has been made to locate and inform the legal guardian of a test result. The department shall adopt a rule to implement this subparagraph.
  12. Those employees of residential facilities or of community-based care programs that care for developmentally disabled persons, pursuant to chapter 393, who are directly involved in the care, control, or custody of such test subject and who have a need to know such information.
  13. A health care provider involved in the delivery of a child can note the mother's HIV test results in the child's medical record.
  14. Medical personnel or nonmedical personnel who have been subject to a significant exposure during the course of medical practice or in the performance of professional duties, or individuals who are the subject of the significant exposure as provided in subparagraphs (h)10.-12.
  15. The medical examiner shall disclose positive HIV test results to the department in accordance with rules for reporting and controlling the spread of disease.
- (f) Except as provided in this section, the identity of a person upon whom a test has been performed is confidential and exempt from the provisions of s. 119.07(1). No person to whom the results of a test have been disclosed may disclose the test results to another person except as authorized by this subsection and by ss. 951.27 and 960.003. Whenever disclosure is made pursuant to this subsection, it shall be accompanied by a statement in writing which includes the following or substantially similar language: "This information has been disclosed to you from records whose confidentiality is protected by state law. State law prohibits you from making any further disclosure of such information without the specific written consent of the person to whom such information pertains, or as otherwise permitted by state law. A general authorization for the release of medical or other information is NOT sufficient for this purpose." An oral disclosure shall be accompanied by oral notice and followed by a written notice within 10 days, except that this notice shall not be required for disclosures made pursuant to subparagraphs (e)3. and 4.

- (g) Human immunodeficiency virus test results contained in the medical records of a hospital licensed under chapter 395 may be released in accordance with s. 395.3025 without being subject to the requirements of subparagraph (e)2., subparagraph (e)9., or paragraph (f); provided the hospital has obtained written informed consent for the HIV test in accordance with provisions of this section.
- (h) Notwithstanding the provisions of paragraph (a), informed consent is not required:
1. When testing for sexually transmissible diseases is required by state or federal law, or by rule including the following situations:
    - a. HIV testing pursuant to s. 796.08 of persons convicted of prostitution or of procuring another to commit prostitution.
    - b. HIV testing of inmates pursuant to s. 945.355 prior to their release from prison by reason of parole, accumulation of gain-time credits, or expiration of sentence.
    - c. Testing for HIV by a medical examiner in accordance with s. 406.11.
    - d. HIV testing of pregnant women pursuant to s. 384.31.
  2. Those exceptions provided for blood, plasma, organs, skin, semen, or other human tissue pursuant to s. 381.0041.
  3. For the performance of an HIV-related test by licensed medical personnel in bona fide medical emergencies when the test results are necessary for medical diagnostic purposes to provide appropriate emergency care or treatment to the person being tested and the patient is unable to consent, as supported by documentation in the medical record. Notification of test results in accordance with paragraph (c) is required.
  4. For the performance of an HIV-related test by licensed medical personnel for medical diagnosis of acute illness where, in the opinion of the attending physician, obtaining informed consent would be detrimental to the patient, as supported by documentation in the medical record, and the test results are necessary for medical diagnostic purposes to provide appropriate care or treatment to the person being tested. Notification of test results in accordance with paragraph (c) is required if it would not be detrimental to the patient. This subparagraph does not authorize the routine testing of patients for HIV infection without informed consent.
  5. When HIV testing is performed as part of an autopsy for which consent was obtained pursuant to s. 872.04.
  6. For the performance of an HIV test upon a defendant pursuant to the victim's request in a prosecution for any type of sexual battery where a blood sample is taken from the defendant voluntarily, pursuant to court order for any purpose, or pursuant to the provisions of s. 775.0877, s. 951.27, or s. 960.003; however, the results of any HIV test performed shall be disclosed solely to the victim and the defendant, except as provided in ss. 775.0877, 951.27, and 960.003.
  7. When an HIV test is mandated by court order.
  8. For epidemiological research pursuant to s. 381.0031, for research consistent with institutional review boards created by 45 C.F.R. part 46, or for the performance of an HIV-related test for the purpose of research, if the testing is performed in a manner by which the identity of the test subject is not known and may not be retrieved by the researcher.
  9. When human tissue is collected lawfully without the consent of the donor for corneal removal as authorized by s. 765.5185 or enucleation of the eyes as authorized by s. 765.519.
  10. For the performance of an HIV test upon an individual who comes into contact with medical personnel in such a way that a significant exposure has occurred during the course of employment or within the scope of practice and where a blood sample is available that was taken from that

individual voluntarily by medical personnel for other purposes. The term “medical personnel” includes a licensed or certified health care professional; an employee of a health care professional or health care facility; employees of a laboratory licensed under chapter 483; personnel of a blood bank or plasma center; a medical student or other student who is receiving training as a health care professional at a health care facility; and a paramedic or emergency medical technician certified by the department to perform life-support procedures under s. 401.23.

- a. Prior to performance of an HIV test on a voluntarily obtained blood sample, the individual from whom the blood was obtained shall be requested to consent to the performance of the test and to the release of the results. If consent cannot be obtained within the time necessary to perform the HIV test and begin prophylactic treatment of the exposed medical personnel, all information concerning the performance of an HIV test and any HIV test result shall be documented only in the medical personnel's record unless the individual gives written consent to entering this information on the individual's medical record.
  - b. Reasonable attempts to locate the individual and to obtain consent shall be made, and all attempts must be documented. If the individual cannot be found or is incapable of providing consent, an HIV test may be conducted on the available blood sample. If the individual does not voluntarily consent to the performance of an HIV test, the individual shall be informed that an HIV test will be performed, and counseling shall be furnished as provided in this section. However, HIV testing shall be conducted only after appropriate medical personnel under the supervision of a licensed physician documents, in the medical record of the medical personnel, that there has been a significant exposure and that, in accordance with the written protocols based on the National Centers for Disease Control and Prevention guidelines on HIV postexposure prophylaxis and in the physician's medical judgment, the information is medically necessary to determine the course of treatment for the medical personnel.
  - c. Costs of any HIV test of a blood sample performed with or without the consent of the individual, as provided in this subparagraph, shall be borne by the medical personnel or the employer of the medical personnel. However, costs of testing or treatment not directly related to the initial HIV tests or costs of subsequent testing or treatment may not be borne by the medical personnel or the employer of the medical personnel.
  - d. In order to utilize the provisions of this subparagraph, the medical personnel must either be tested for HIV pursuant to this section or provide the results of an HIV test taken within 6 months prior to the significant exposure if such test results are negative.
  - e. A person who receives the results of an HIV test pursuant to this subparagraph shall maintain the confidentiality of the information received and of the persons tested. Such confidential information is exempt from s. 119.07(1).
  - f. If the source of the exposure will not voluntarily submit to HIV testing and a blood sample is not available, the medical personnel or the employer of such person acting on behalf of the employee may seek a court order directing the source of the exposure to submit to HIV testing. A sworn statement by a physician licensed under chapter 458 or chapter 459 that a significant exposure has occurred and that, in the physician's medical judgment, testing is medically necessary to determine the course of treatment constitutes probable cause for the issuance of an order by the court. The results of the test shall be released to the source of the exposure and to the person who experienced the exposure.
11. For the performance of an HIV test upon an individual who comes into contact with medical personnel in such a way that a significant exposure has occurred during the course of employment or within the scope of practice of the medical personnel while the medical personnel provides

emergency medical treatment to the individual; or notwithstanding s. 384.287, an individual who comes into contact with nonmedical personnel in such a way that a significant exposure has occurred while the nonmedical personnel provides emergency medical assistance during a medical emergency. For the purposes of this subparagraph, a medical emergency means an emergency medical condition outside of a hospital or health care facility that provides physician care. The test may be performed only during the course of treatment for the medical emergency.

- a. An individual who is capable of providing consent shall be requested to consent to an HIV test prior to the testing. If consent cannot be obtained within the time necessary to perform the HIV test and begin prophylactic treatment of the exposed medical personnel and nonmedical personnel, all information concerning the performance of an HIV test and its result, shall be documented only in the medical personnel's or nonmedical personnel's record unless the individual gives written consent to entering this information on the individual's medical record.
  - b. HIV testing shall be conducted only after appropriate medical personnel under the supervision of a licensed physician documents, in the medical record of the medical personnel or nonmedical personnel, that there has been a significant exposure and that, in accordance with the written protocols based on the National Centers for Disease Control and Prevention guidelines on HIV postexposure prophylaxis and in the physician's medical judgment, the information is medically necessary to determine the course of treatment for the medical personnel or nonmedical personnel.
  - c. Costs of any HIV test performed with or without the consent of the individual, as provided in this subparagraph, shall be borne by the medical personnel or the employer of the medical personnel or nonmedical personnel. However, costs of testing or treatment not directly related to the initial HIV tests or costs of subsequent testing or treatment may not be borne by the medical personnel or the employer of the medical personnel or nonmedical personnel.
  - d. In order to utilize the provisions of this subparagraph, the medical personnel or nonmedical personnel shall be tested for HIV pursuant to this section or shall provide the results of an HIV test taken within 6 months prior to the significant exposure if such test results are negative.
  - e. A person who receives the results of an HIV test pursuant to this subparagraph shall maintain the confidentiality of the information received and of the persons tested. Such confidential information is exempt from s. 119.07(1).
  - f. If the source of the exposure will not voluntarily submit to HIV testing and a blood sample was not obtained during treatment for the medical emergency, the medical personnel, the employer of the medical personnel acting on behalf of the employee, or the nonmedical personnel may seek a court order directing the source of the exposure to submit to HIV testing. A sworn statement by a physician licensed under chapter 458 or chapter 459 that a significant exposure has occurred and that, in the physician's medical judgment, testing is medically necessary to determine the course of treatment constitutes probable cause for the issuance of an order by the court. The results of the test shall be released to the source of the exposure and to the person who experienced the exposure.
12. For the performance of an HIV test by the medical examiner or attending physician upon an individual who expired or could not be resuscitated while receiving emergency medical assistance or care and who was the source of a significant exposure to medical or nonmedical personnel providing such assistance or care.
- a. HIV testing may be conducted only after appropriate medical personnel under the supervision of a licensed physician documents in the medical record of the medical personnel or

nonmedical personnel that there has been a significant exposure and that, in accordance with the written protocols based on the National Centers for Disease Control and Prevention guidelines on HIV postexposure prophylaxis and in the physician's medical judgment, the information is medically necessary to determine the course of treatment for the medical personnel or nonmedical personnel.

- b. Costs of any HIV test performed under this subparagraph may not be charged to the deceased or to the family of the deceased person.
- c. For the provisions of this subparagraph to be applicable, the medical personnel or nonmedical personnel must be tested for HIV under this section or must provide the results of an HIV test taken within 6 months before the significant exposure if such test results are negative.
- d. A person who receives the results of an HIV test pursuant to this subparagraph shall comply with paragraph (e).

- 13. For the performance of an HIV-related test medically indicated by licensed medical personnel for medical diagnosis of a hospitalized infant as necessary to provide appropriate care and treatment of the infant when, after a reasonable attempt, a parent cannot be contacted to provide consent. The medical records of the infant shall reflect the reason consent of the parent was not initially obtained. Test results shall be provided to the parent when the parent is located.
- 14. For the performance of HIV testing conducted to monitor the clinical progress of a patient previously diagnosed to be HIV positive.
- 15. For the performance of repeated HIV testing conducted to monitor possible conversion from a significant exposure.

(3) County health department network of voluntary human immunodeficiency virus testing programs.—

- (a) The Department of Health shall establish a network of voluntary human immunodeficiency virus testing programs in every county in the state. These programs shall be conducted in each health department established under the provisions of part I of chapter 154. Additional programs may be contracted to other private providers to the extent that finances permit and local circumstances dictate.
- (b) Each county health department shall have the ability to provide counseling and testing for human immunodeficiency virus to each patient who receives services and shall offer such testing on a voluntary basis to each patient who presents himself or herself for services in a public health program designated by the State Health Officer by rule.
- (c) Each county health department shall provide a program of counseling and testing for human immunodeficiency virus infection, on both an anonymous and confidential basis. Counseling provided to a patient tested on both an anonymous and confidential basis shall include informing the patient of the availability of partner-notification services, the benefits of such services, and the confidentiality protections available as part of such services. The Department of Health or its designated agent shall continue to provide for anonymous testing through an alternative testing site program with sites throughout all areas of the state. Each county health department shall maintain a list of anonymous testing sites. The list shall include the locations, phone numbers, and hours of operation of the sites and shall be disseminated to all persons and programs offering human immunodeficiency virus testing within the service area of the county health department, including physicians licensed under chapter 458 or chapter 459. Except as provided in this section, the identity of a person upon whom a test has been performed and test results are confidential and exempt from the provisions of s. 119.07(1).
- (d) The result of a serologic test conducted under the auspices of the Department of Health shall not be used to determine if a person may be insured for disability, health, or life insurance or to screen or

determine suitability for, or to discharge a person from, employment. Any person who violates the provisions of this subsection is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

- (4) Human immunodeficiency virus testing requirements; registration with the department of health; exemptions from registration.--No county health department and no other person in this state shall conduct or hold themselves out to the public as conducting a testing program for acquired immune deficiency syndrome or human immunodeficiency virus status without first registering with the Department of Health, reregistering each year, complying with all other applicable provisions of state law, and meeting the following requirements:
- (a) The program must be directed by a person with a minimum number of contact hours of experience in the counseling of persons with acquired immune deficiency syndrome or human immunodeficiency virus infection, as established by the Department of Health by rule.
  - (b) The program must have all medical care supervised by a physician licensed under the provisions of chapter 458 or chapter 459.
  - (c) The program shall have all laboratory procedures performed in a laboratory licensed under the provisions of chapter 483.
  - (d) The program must meet all the informed consent criteria contained in subsection (2).
  - (e) The program must provide the opportunity for pretest counseling on the meaning of a test for human immunodeficiency virus, including medical indications for the test; the possibility of false positive or false negative results; the potential need for confirmatory testing; the potential social, medical, and economic consequences of a positive test result; and the need to eliminate high-risk behavior.
  - (f) The program must provide supplemental corroborative testing on all positive test results before the results of any positive test are provided to the patient. Except as provided in this section, the identity of any person upon whom a test has been performed and test results are confidential and exempt from the provisions of s. 119.07(1).
  - (g) The program must provide the opportunity for face-to-face posttest counseling on the meaning of the test results; the possible need for additional testing; the social, medical, and economic consequences of a positive test result; and the need to eliminate behavior which might spread the disease to others.
  - (h) Each person providing posttest counseling to a patient with a positive test result shall receive specialized training, to be specified by rule of the department, about the special needs of persons with positive results, including recognition of possible suicidal behavior, and shall refer the patient for further health and social services as appropriate.
  - (i) When services are provided for a charge during pretest counseling, testing, supplemental testing, and posttest counseling, the program must provide a complete list of all such charges to the patient and the Department of Health.
  - (j) Nothing in this subsection shall be construed to require a facility licensed under chapter 483 or a person licensed under the provisions of chapter 457, chapter 458, chapter 459, chapter 460, chapter 461, chapter 466, or chapter 467 to register with the Department of Health if he or she does not advertise or hold himself or herself out to the public as conducting testing programs for human immunodeficiency virus infection or specializing in such testing.
  - (k) The department shall deny, suspend, or revoke the registration of any person or agency that violates this section, or any rule adopted under this section, constituting an emergency affecting the immediate health, safety, and welfare of a person receiving service.

(5) Penalties.--

- (a) Any violation of this section by a facility or licensed health care provider shall be a ground for disciplinary action contained in the facility's or professional's respective licensing chapter.
  - (b) Any person who violates the confidentiality provisions of this section and s. 951.27 commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.
  - (c) Any person who obtains information that identifies an individual who has a sexually transmissible disease including human immunodeficiency virus or acquired immunodeficiency syndrome, who knew or should have known the nature of the information and maliciously, or for monetary gain, disseminates this information or otherwise makes this information known to any other person, except by providing it either to a physician or nurse employed by the department or to a law enforcement agency, commits a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083.
- (6) Exemptions.--Except as provided in paragraph (3)(d) and ss. 627.429 and 641.3007, insurers and others participating in activities related to the insurance application and underwriting process shall be exempt from this section.
- (7) Model protocol for counseling and testing for human immunodeficiency virus.--The Department of Health shall develop, by rule, a model protocol consistent with the provisions of this section for counseling and testing persons for the human immunodeficiency virus. The protocol shall include criteria for evaluating a patient's risk for human immunodeficiency virus infection and for offering human immunodeficiency virus testing, on a voluntary basis, as a routine part of primary health care or admission to a health care facility. The Department of Health shall ensure that the protocols developed under this section are made available to health care providers.
- (8) Fees.--
- (a) Each person or private organization registered as an AIDS or HIV testing site shall pay the department a fee which shall be set by rule of the department.
  - (b) Fees established pursuant to paragraph (a) shall be an amount sufficient to meet all costs incurred by the department in carrying out its registration, data collection, complaint monitoring, and administrative responsibilities under this section, for all private AIDS or HIV testing sites, but shall not exceed \$100.
  - (c) No other fees shall be charged by other governmental agencies for these purposes.
- (9) Rules.--The Department of Health may adopt rules to implement this section, including definitions of terms, procedures for accessing confidential information, requirements for testing, and requirements for registered testing sites.
- (10) Testing as a condition of treatment or admission.—
- (a) It is unlawful for any facility the operation of which, or for any person engaged in an occupation the practice of which, requires a license by the Agency for Health Care Administration, the Department of Health, or the Department of Business and Professional Regulation, to require any person to take or submit to a human immunodeficiency virus-related test as a condition of admission to any such facility or as a condition of purchasing or obtaining any service or product for which the license is required. This subsection shall not be construed to prohibit any physician in good faith from declining to provide a particular treatment requested by a patient if the appropriateness of that treatment can only be determined through a human immunodeficiency virus-related test.

- (b) The Agency for Health Care Administration, the Department of Health, and the Department of Business and Professional Regulation shall adopt rules implementing this subsection.
- (c) Any violation of this subsection or the rules implementing it shall be punishable as provided in subsection (5).

### **FL ST § 384.23. Definitions**

- (1) “Department” means the Department of Health.
- (2) “County health department” means agencies and entities as designated in chapter 154.
- (3) “Sexually transmissible disease” means a bacterial, viral, fungal, or parasitic disease, determined by rule of the department to be sexually transmissible, to be a threat to the public health and welfare, and to be a disease for which a legitimate public interest will be served by providing for regulation and treatment. In considering which diseases are to be designated as sexually transmissible diseases, the department shall consider such diseases as chancroid, gonorrhea, granuloma inguinale, lymphogranuloma venereum, genital herpes simplex, chlamydia, nongonococcal urethritis (NGU), pelvic inflammatory disease (PID)/acute salpingitis, syphilis, and human immune deficiency virus infection for designation, and shall consider the recommendations and classifications of the centers for disease control and other nationally recognized medical authorities. Not all diseases that are sexually transmissible need be designated for the purposes of this act.

### **FL ST § 384.24. Unlawful acts**

- (1) It is unlawful for any person who has chancroid, gonorrhea, granuloma inguinale, lymphogranuloma venereum, genital herpes simplex, chlamydia, nongonococcal urethritis (NGU), pelvic inflammatory disease (PID)/acute salpingitis, or syphilis, when such person knows he or she is infected with one or more of these diseases and when such person has been informed that he or she may communicate this disease to another person through sexual intercourse, to have sexual intercourse with any other person, unless such other person has been informed of the presence of the sexually transmissible disease and has consented to the sexual intercourse.
- (2) It is unlawful for any person who has human immunodeficiency virus infection, when such person knows he or she is infected with this disease and when such person has been informed that he or she may communicate this disease to another person through sexual intercourse, to have sexual intercourse with any other person, unless such other person has been informed of the presence of the sexually transmissible disease and has consented to the sexual intercourse.

### **FL ST § 384.25. Reporting required**

- (1) Each person who makes a diagnosis of or treats a person with a sexually transmissible disease and each laboratory that performs a test that concludes with a positive result for a sexually transmissible disease or a result indicative of human immunodeficiency virus (HIV) or acquired immune deficiency syndrome (AIDS) shall report such facts as may be required by the department by rule, within a time period as specified by rule of the department, but in no case to exceed 2 weeks.

- (2) The department shall adopt rules specifying the information required and the maximum time period for reporting a sexually transmissible disease. In adopting such rules, the department shall consider the need for information, protections for the privacy and confidentiality of the patient, and the practical ability of persons and laboratories to report in a reasonable fashion.
- (3) To ensure the confidentiality of persons infected with the human immunodeficiency virus (HIV), reporting of HIV infection and AIDS must be conducted using a system developed by the Centers for Disease Control and Prevention of the United States Public Health Service or an equivalent system.
  - (a) The department shall adopt rules requiring each physician and laboratory to report any newborn or infant up to 18 months of age who has been exposed to HIV. Such rules may include the method and time period for reporting, which may not exceed 2 weeks, information to be included in the report, enforcement requirements, and followup activities by the department.
  - (b) The reporting may not affect or relate to anonymous HIV testing programs conducted pursuant to s. 381.004(3).
  - (c) After notification of the test subject, the department may, with the consent of the test subject, notify school superintendents of students and school personnel whose HIV tests are positive.
- (4) Each person who violates the provisions of this section or the rules adopted hereunder may be fined by the department up to \$500 for each offense. The department shall report each violation of this section to the regulatory agency responsible for licensing each health care professional and each laboratory to which these provisions apply.

#### **FL ST § 384.28. Hospitalization, placement, and residential isolation**

- (1) Subject to the provisions of subsections (2) and (3), the department may petition the circuit court to order a person to be isolated, hospitalized, placed in another health care or residential facility, or isolated from the general public in his or her own or another's residence, or a place to be made off limits to the public as a result of the probable spread of a sexually transmissible disease, until such time as the condition can be corrected or the threat to the public's health eliminated or reduced in such a manner that a substantial threat to the public's health no longer exists.
- (2) No person may be ordered to be isolated, hospitalized, placed in another health care or residential facility, or isolated from the public in his or her own or another's residence, and no place may be ordered to be made off limits, except upon the order of a court of competent jurisdiction and upon proof:
  - (a) By the department by clear and convincing evidence that the public's health and welfare are significantly endangered by a person with a sexually transmissible disease or by a place where there is a significant amount of sexual activity likely to spread a sexually transmissible disease;
  - (b) That the person with the sexually transmissible disease has been counseled about the disease, about the significant threat the disease poses to other members of the public, and about methods to minimize the risk to the public and despite such counseling indicates an intent to expose the public to infection from the sexually transmissible disease; and
  - (c) That all other reasonable means of correcting the problem have been exhausted and no less restrictive alternative exists.
- (3) No person may be ordered to be hospitalized, placed in another health care or residential facility, or isolated in his or her own or another's residence by a court unless:

- (a) A hearing has been held of which the person has received at least 72 hours' prior written notification and unless the person has received a list of the proposed actions to be taken and the reasons for each one.
  - (b) The person has the right to attend the hearing, to cross-examine witnesses, and to present evidence.
  - (c) The person has a right to an attorney to represent him or her, and to have an attorney appointed on the person's behalf if he or she cannot afford one.
- (4) An order for hospitalization, placement in another health or residential facility, or isolation from the general public in his or her own or another's residence, if issued, will be valid for no more than 120 days, or for a shorter period of time if the department, or the court upon petition, determines that the person no longer poses a substantial threat to the community. Orders for hospitalization, placement, or isolation in a residence may contain additional requirements for adherence to a treatment plan or participation in counseling or education programs as appropriate. Such orders may not be renewed without affording the person all rights conferred in subsections (2) and (3).
- (5) No order for hospitalization or placement in another health care or residential facility may require the placement of a person under the age of 18 years in a unit of a facility where adults reside or have been hospitalized or placed.
- (6) No order for hospitalization or placement in another health care or residential facility shall require the placement of a person in a facility designated for the treatment of acquired immune deficiency syndrome, acquired immune deficiency syndrome related complex, or human immunodeficiency virus infection when that facility contains the maximum number of persons for which the Legislature has appropriated funds in the annual appropriations act.
- (7) The department is authorized to establish, directly or by contract, facilities to serve persons ordered to be hospitalized or placed in another health care or residential facility pursuant to a court order under this section.
- (8) The court, counsel, and local law enforcement officials, as appropriate, shall consult with the department to determine advisable infection control procedures to be taken during any court hearing or detention concerning a person infected with a sexually transmissible disease.

#### **FL ST § 384.287. Screening for sexually transmissible disease**

- (1) An officer as defined in s. 943.10(14); support personnel as defined in s. 943.10(11) who are employed by the Department of Law Enforcement, including, but not limited to, any crime scene analyst, forensic technologist, or crime lab analyst; firefighter as defined in s. 633.102; or ambulance driver, paramedic, or emergency medical technician as defined in s. 401.23, acting within the scope of employment, who comes into contact with a person in such a way that significant exposure, as defined in s. 381.004, has occurred may request that the person be screened for a sexually transmissible disease that can be transmitted through a significant exposure.
- (2) If the person will not voluntarily submit to screening, the officer, support personnel of the Department of Law Enforcement, firefighter, ambulance driver, paramedic, or emergency medical technician, or the employer of any of the employees described in subsection (1) acting on behalf of the employee, may seek a court order directing that the person who is the source of the significant exposure submit to screening. A

sworn statement by a physician licensed under chapter 458 or chapter 459 that a significant exposure has occurred and that, in the physician's medical judgment, the screening is medically necessary to determine the course of treatment for the employee, constitutes probable cause for the issuance of the order by the court.

- (3) In order to use the provisions of this section, the employee subjected to the significant exposure must also be screened for the same sexually transmissible diseases.
- (4) All screenings must be conducted by the department or the department's authorized representative or by medical personnel at a facility designated by the court. The cost of screening shall be borne by the employer.
- (5) Results of the screening are exempt from the requirements of s. 384.29 solely for the purpose of releasing the results to the person who is the source of the significant exposure, to the person subjected to the significant exposure, to the physicians of the persons screened, and to the employer, if necessary for filing a worker's compensation claim or any other disability claim based on the significant exposure.
- (6) A person who receives the results of a test pursuant to this section, which results disclose human immunodeficiency virus infection and are otherwise confidential pursuant to law, shall maintain the confidentiality of the information received and the identity of the person tested as required by s. 381.004. Violation of this subsection constitutes a misdemeanor of the first degree, punishable as provided in

#### **FL ST § 796.08. Screening for HIV and sexually transmissible diseases;...**

- (1) (a) For the purposes of this section, "sexually transmissible disease" means a bacterial, viral, fungal, or parasitic disease, determined by rule of the Department of Health to be sexually transmissible, a threat to the public health and welfare, and a disease for which a legitimate public interest is served by providing for regulation and treatment.  
  
(b) In considering which diseases are designated as sexually transmissible diseases, the Department of Health shall consider such diseases as chancroid, gonorrhea, granuloma inguinale, lymphogranuloma venereum, genital herpes simplex, chlamydia, nongonococcal urethritis (NGU), pelvic inflammatory disease (PID)/acute salpingitis, syphilis, and human immunodeficiency virus infection for designation and shall consider the recommendations and classifications of the Centers for Disease Control and Prevention and other nationally recognized authorities. Not all diseases that are sexually transmissible need be designated for purposes of this section.
- (2) A person arrested under s. 796.07 may request screening for a sexually transmissible disease under direction of the Department of Health and, if infected, shall submit to appropriate treatment and counseling. A person who requests screening for a sexually transmissible disease under this subsection must pay any costs associated with such screening.
- (3) A person convicted under s. 796.07 of prostitution or procuring another to commit prostitution must undergo screening for a sexually transmissible disease, including, but not limited to, screening to detect exposure to the human immunodeficiency virus, under direction of the Department of Health. If the person is infected, he or she must submit to treatment and counseling prior to release from probation, community control, or incarceration. Notwithstanding the provisions of s. 384.29, the results of tests conducted pursuant to this subsection shall be made available by the Department of Health to the

offender, medical personnel, appropriate state agencies, state attorneys, and courts of appropriate jurisdiction in need of such information in order to enforce the provisions of this chapter.

(4) A person who commits prostitution or procures another for prostitution and who, prior to the commission of such crime, had tested positive for a sexually transmissible disease other than human immunodeficiency virus infection and knew or had been informed that he or she had tested positive for such sexually transmissible disease and could possibly communicate such disease to another person through sexual activity commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. A person may be convicted and sentenced separately for a violation of this subsection and for the underlying crime of prostitution or procurement of prostitution.

(5) A person who:

(a) Commits or offers to commit prostitution; or

(b) Procures another for prostitution by engaging in sexual activity in a manner likely to transmit the human immunodeficiency virus, and who, prior to the commission of such crime, had tested positive for human immunodeficiency virus and knew or had been informed that he or she had tested positive for human immunodeficiency virus and could possibly communicate such disease to another person through sexual activity commits criminal transmission of HIV, a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. A person may be convicted and sentenced separately for a violation of this subsection and for the underlying crime of prostitution or procurement of prostitution.

## GEORGIA

### GA ST § 16-6-13.1. Testing for sexually transmitted diseases of...

- (a) Any term used in this Code section and defined in Code Section 31-22-9.1 shall have the meaning provided for such term in Code Section 31-22-9.1.
- (b) Upon a verdict or plea of guilty or a plea of nolo contendere to the offense of pandering, the court in which that verdict is returned or plea entered shall as a condition of probation or a suspended sentence require the defendant in such case to submit to testing for sexually transmitted diseases within 45 days following the date of the verdict or plea and to consent to release of the test results to the defendant's spouse if the defendant is married; provided, however, that a defendant who is not a resident of this state shall, upon a verdict or plea of guilty or a plea of nolo contendere, be ordered by the court to undergo immediate testing for sexually transmitted diseases and shall remain in the custody of the court until such testing is completed. The clerk of the court, in the case of a defendant who is a resident of this state, shall mail, within three days following the date of that verdict or plea, a copy of that verdict or plea to the Department of Public Health. The tests for sexually transmitted diseases required under this subsection shall be limited to the eight most common sexually transmitted diseases as determined by the Department of Public Health.
- (c) The Department of Public Health, within 30 days following the notification under subsection (b) of this Code section, shall arrange for the tests for the person required to submit thereto. Such person shall bear the costs of such tests.
- (d) Any person required under this Code section to submit to testing for sexually transmitted diseases who fails or refuses to submit to the tests arranged pursuant to subsection (c) of this Code section shall be subject to such measures deemed necessary by the court in which the verdict was returned or plea entered to require voluntary submission to the tests.

### GA ST § 31-17-1. Certain diseases declared contagious

Syphilis, gonorrhea, and chancroid, hereinafter referred to as venereal diseases, are declared to be contagious, infectious, communicable, and dangerous to the public health.

## HAWAII

### HI ST § 321-111. Sexually transmitted disease prevention program

- (a) The departments of health and education shall cooperate with each other and other public and private authorities as they may deem advisable for the education of minors and members of the general public on sexually transmitted diseases and the prevention of sexually transmitted diseases. For the purpose of this section, “minor” means any person fourteen years of age or older and under the age of majority.
- (b) The department of health shall formulate, supervise, and coordinate throughout the State an educational program for the purposes of preventing sexually transmitted diseases, instructing the general public in detecting the diseases, and encouraging early treatment.
- (c) The information shall be made available upon request to all minors and members of the general public without parental consent and the information shall be distributed to all public school counselors requesting educational materials concerning sexually transmitted disease prevention, detection, and treatment.

### HI ST § 325-52. Serologic tests; reports

For the purposes of this part a standard serologic test shall be a test for syphilis approved by the department of health and shall be made at a laboratory approved to make such tests by the department. Such laboratory tests as are required by this part shall be made on request without charge at the department laboratories. The department shall issue a “laboratory report form” to be distributed upon application to all laboratories approved to make tests called for in this section. Any laboratory making any such tests shall prepare the report thereof in triplicate. The original of the report shall be transmitted by the laboratory making the test to the certifying physician. The duplicate copy of such report shall be forwarded to the department. The triplicate shall be retained by the laboratory in its files and shall be open at any time for inspection by an authorized representative of the department.

### HI ST § 211F-5.5. Cancer detection development revolving fund;...

- (a) There is established the cancer detection development revolving fund to be administered by the Hawaii strategic development corporation to assist enterprises that develop healthcare and biomedical technology to detect cancer, including cervical cancer, in its early stages.
- (b) The fund shall not be considered part of the general fund and shall consist of moneys:
  - (1) Appropriated by the legislature;
  - (2) Received as repayments of loans;
  - (3) Earned on investments;
  - (4) Received pursuant to a venture agreement;
  - (5) Received as royalties; and
  - (6) Received as premiums, or fees charged by the corporation or otherwise received by the corporation.

### HI ST § 453-51. Definitions

As used in this part:

“Expedited partner therapy” means the indirect treatment of partners of a patient who has been diagnosed as having a sexually transmitted disease through the dispensing or prescribing of antibiotic therapy for the treatment of the partners to the patient without the physical examination of the partners by a health professional.

“Health professional” means any of the following:

- (1) A person licensed or otherwise authorized by law to practice medicine or surgery under this chapter and whose scope of practice includes the diagnosis and treatment of sexually transmitted diseases;
- (2) An advanced practice registered nurse with prescriptive authority under chapter 457 and duly licensed in the State; or
- (3) For the purpose of dispensing antibiotic therapy under this section, a pharmacist who is licensed or otherwise authorized to engage in the practice of pharmacy under chapter 461.

“Sexual activity” means sexual intercourse, cunnilingus, fellatio, anal intercourse, or any other intrusion, however slight, of any part of a person's body or of any object into the genital or anal openings of another person's body, but emission of semen is not required.

“Sexually transmitted disease” means chlamydia, gonorrhea, or other sexually transmitted diseases that are or may be recommended by the Centers for Disease Control and Prevention for expedited partner therapy.

## IDAHO

### **ID ST § 39-1001. Serological test of pregnant or recently delivered women**

Every licensed physician attending a pregnant woman for a condition relating to her pregnancy, or at delivery, or after delivery for a condition relating to her pregnancy, shall in the case of every woman so attended, take or cause to be taken a sample of blood of such woman at the time of first examination or within fifteen (15) days thereafter, and shall submit such sample to the laboratory of the department of health and welfare or to a laboratory approved by the director of the department, for a standard serological test for syphilis. In submitting such sample to the laboratory, the physician shall specify whether it is for a prenatal test or a test following recent delivery. The laboratory of the department of health and welfare shall analyze such sample upon the request of any licensed physician and may collect a fee for the performance of such analyses.

### **ID ST § 39-601. Venereal diseases enumerated**

Syphilis, gonorrhea, human immunodeficiency virus (HIV), chlamydia and hepatitis B virus (HBV), hereinafter designated as venereal diseases, are hereby declared to be contagious, infectious, communicable and dangerous to public health; and it shall be unlawful for anyone infected with these diseases or any of them to knowingly expose another person to the infection of such diseases.

### **ID ST § 39-603. Examination, treatment, and quarantine--Repression of...**

State, county and municipal health officers, or their authorized deputies, within their respective jurisdiction, are hereby directed and empowered, when in their judgment it is necessary to protect the public health, to make examinations, or have examinations made by competent physician, of persons reasonably suspected of being infected with venereal disease, and to require persons infected with venereal disease to report for treatment to a reputable physician and continue treatment until cured, or to submit to treatment provided at public expense until cured, and also, when in their judgment it is necessary to protect the public health, to isolate or quarantine persons affected with venereal disease. It shall be the duty of all local and state health officers to investigate sources of infection of venereal diseases, to cooperate with the proper officials whose duty it is to enforce laws directed against prostitution, and otherwise to use every proper means for the repression of prostitution.

### **ID ST § 39-604. Confined and imprisoned persons--Examination, treatment...**

- (1) All persons who shall be confined or imprisoned in any state prison facility in this state shall be examined for on admission, and again upon the offender's request before release, and, if infected, treated for the diseases enumerated in section 39-601, Idaho Code, and this examination shall include a test for HIV antibodies or antigens. This examination is not intended to limit any usual or customary medical examinations that might be indicated during a person's imprisonment. Nothing herein contained shall be construed to interfere with the service of any sentence imposed by a court as a punishment for the commission of crime. Nothing contained in this section shall be construed to impose upon any state prison facility an obligation to continue to treat a person who tested positive for any disease enumerated in section 39-601, Idaho Code, or be financially responsible for such treatment after the person is released from the state prison facility.
- (2) All persons who shall be confined in any county or city jail may be examined for and, if infected, treated for the venereal diseases enumerated in section 39-601, Idaho Code, if such persons have, in the judgment of

public health authorities or the jailer, been exposed to a disease enumerated in section 39-601, Idaho Code.

- (3) All persons who are charged with any sex offense in which body fluid, as defined in this chapter, has likely been transmitted to another shall be tested for the human immunodeficiency virus (HIV). At the request of the victim or parent, guardian or legal custodian of a minor victim, such test shall be administered not later than forty-eight (48) hours after the date on which the information or indictment is presented.
- (4) All persons, including juveniles, who are charged with sex offenses, prostitution, any crime in which body fluid has likely been transmitted to another, or other charges as recommended by public health authorities shall be tested for the venereal diseases enumerated in section 39-601, Idaho Code, and for hepatitis C virus.
- (5) All persons who are charged with any crime involving the use of injectable drugs shall be tested for the presence of HIV antibodies or antigens, for hepatitis C virus and for hepatitis B virus.
- (6) If a person is tested as required in subsection (3), (4) or (5) of this section, the results of the test shall be revealed to the court. The court shall release the results of the test to the victim(s), or if the victim(s) is a minor, to the minor's parent, guardian or legal custodian. Whenever a prisoner tests positive for HIV antibodies or antigens, the victim(s) of said prisoner shall be entitled to counseling regarding HIV, HIV testing in accordance with applicable law, and referral for appropriate health care and support services. Said counseling, HIV testing and referral services shall be provided to the victim(s) by the district health departments at no charge to the victim(s). Provided however, the requirement to provide referral services does not, in and of itself, obligate the district health departments to provide or otherwise pay for a victim's health care or support services. Any court, when releasing test results to a victim(s), or if the victim(s) is a minor, to the minor's parent, guardian, or legal custodian, shall explain or otherwise make the victim(s) or the victim's parent, guardian, or legal custodian, aware of the services to which the victim(s) is entitled as described herein.
- (7) Responsibility for the examination, testing and treatment of persons confined in county or city jails shall be vested in the county or city that operates the jail. The county or city may contract with the district health departments or make other arrangements for the examination, testing and treatment services. The district health department or other provider may charge and collect for the costs of such examination and treatment, as follows:
  - (a) When the prisoner is a convicted felon awaiting transfer to the board of correction, or when the prisoner is a convicted felon being confined in jail pursuant to a contract with the board of correction, the board of correction shall reimburse such costs;
  - (b) When the prisoner is awaiting trial after an arrest by any state officer, the state agency employing such arresting officer shall reimburse such costs;
  - (c) When the prisoner is being held for any other authority or jurisdiction, including another state, the authority or jurisdiction responsible shall reimburse such costs unless otherwise provided for by contract.

## **ID ST § 39-605. Rules for carrying out law**

The state board of health and welfare is hereby empowered and directed to make such rules as shall, in its judgment, be necessary for the carrying out of the provisions of this chapter, including rules providing for the control and treatment of persons isolated or quarantined under the provisions of section 39-603, Idaho Code, and such other rules, not in conflict with provisions of this chapter, concerning the control of venereal diseases, and concerning the care, treatment and quarantine of persons infected therewith, as it may from time to time deem advisable. All such rules so made shall be of force and binding upon all county and municipal health officers and other persons affected by this chapter, and shall have the force and effect of law. Such rules may be amended from time to time by the state board of health and welfare. All rules must be entered on the minutes of the state board of health and welfare and copies shall be furnished to all county and municipal health officers and to anyone else who may apply for same. Such rules shall be adopted and become effective in accordance with the provisions of chapter 52, title 67, Idaho Code.

## **ID ST § 39-607. Penalties for violations**

Any person who shall violate any lawful rule or regulation made by the state board of health and welfare, pursuant to the authority herein granted, or who shall fail or refuse to obey any lawful order issued by any public health authority, pursuant to the authority granted in this chapter, or any person who, knowing that he or she is infected with syphilis, gonorrhea or chancroid, exposes another person to the infection of such disease, shall be deemed guilty of a misdemeanor, and shall be punished, on conviction thereof, by a fine of not more than three hundred dollars (\$300) or by imprisonment in the county jail for not more than six (6) months; or by both such fine and imprisonment.

## **ID ST § 54-1733. Validity of prescription drug orders**

- (1) Except as provided in subsection (4) of this section, a prescription drug order for a legend drug is not valid unless it is issued for a legitimate medical purpose arising from a prescriber-patient relationship which includes a documented patient evaluation adequate to establish diagnoses and identify underlying conditions and/or contraindications to the treatment. Treatment, including issuing a prescription drug order, based solely on an online questionnaire or consultation outside of an ongoing clinical relationship does not constitute a legitimate medical purpose. A prescription drug order may be issued either:
  - (a) By a practitioner acting in the usual course of his profession; or
  - (b) By a physician, dentist, veterinarian, scientific investigator or other person, other than a pharmacist, who is licensed in a jurisdiction other than the state of Idaho and is permitted by such license to dispense, conduct research with respect to or administer the prescribed legend drugs in the course of his professional practice or research in such jurisdiction, so long as the individual is acting within the jurisdiction, scope and authority of his license when issuing the prescription drug order.
  - (c) The prescription drug order may be signed and sent electronically pursuant to chapter 50, title 28, Idaho Code.
  - (d) Transmission of prescription drug order. In addition to delivery of the original signed written prescription drug order to a licensed pharmacy:
    - (i) A prescription drug order that has been signed by the practitioner may be received by a licensed pharmacy for dispensing purposes through a facsimile transmission from the prescribing practitioner or the practitioner's agent, or from an institutional facility for a patient or resident in such facility;

- (ii) A prescription drug order may also be received by a licensed pharmacist verbally from the practitioner, the practitioner's agent or from a licensed practical nurse or licensed professional nurse in an institutional facility for a patient or resident in such facility;
  - (iii) A prescription drug order received verbally from the practitioner by a licensed practical nurse or licensed professional nurse in a licensed institutional facility for a patient or resident in such facility may also be sent by facsimile transmission from the institutional facility to a licensed pharmacy for dispensing purposes provided the transmitted document includes the name of the prescriber issuing the prescription drug order, the name of the nurse who transcribed the order and the name of the person who sent the facsimile.
- (e) In the event that there are no refills remaining on an existing prescription drug order, and the pharmacist requests a new prescription drug order from the practitioner, the practitioner's agent, after obtaining practitioner authorization, may sign and return the request via facsimile so long as:
- (i) The request is generated from the pharmacy;
  - (ii) The request is for medication that the patient is currently taking;
  - (iii) There are no changes to the type of drug, its strength or directions for the continuation of therapy;
  - (iv) The practitioner's agent's transmission is received via facsimile from the practitioner's office; and
  - (v) The request, which is subsequently transmitted back to the requesting pharmacy by the practitioner's agent, contains all components of a valid prescription drug order.
- (2) It is unlawful for a practitioner to knowingly issue an invalid prescription drug order for a legend drug.
- (3) It is unlawful for a pharmacist or veterinarian to knowingly fill an invalid prescription drug order for a legend drug.
- (4) A prescriber who is otherwise authorized to perform any of the activities listed in this subsection may prescribe or perform any of the following activities for a patient with whom the prescriber does not have a prescriber-patient relationship under the following circumstances:
- (a) Writing initial admission orders for a newly hospitalized patient;
  - (b) Writing a prescription for a patient of another prescriber for whom the prescriber is taking call;
  - (c) Writing a prescription for a patient examined by a physician assistant, advanced practice registered nurse or other licensed practitioner with whom the prescriber has a supervisory or collaborative relationship;
  - (d) Writing a prescription for medication on a short-term basis for a new patient prior to the patient's first appointment;
  - (e) In emergency situations where life or health of the patient is in imminent danger;
  - (e) In emergencies that constitute an immediate threat to the public health including, but not limited to, empiric treatment or prophylaxis to prevent or control an infectious disease outbreak;
  - (f) If a prescriber makes a diagnosis of a sexually transmitted disease in a patient, the prescriber may prescribe or dispense antibiotics to the infected patient's named sexual partner or partners for treatment of the sexually transmitted disease as recommended by the most current centers for disease control and prevention (CDC) guidelines.
- (5) Prescribing drugs to individuals without a prescriber-patient relationship and not in accordance with this section shall be unprofessional conduct and the prescriber shall be subject to discipline according to the provisions of the Idaho Code chapter pursuant to which the prescriber is licensed, certified or registered.

# ILLINOIS

## IL ST CH 410 § 325/3. Definitions

As used in this Act, unless the context clearly requires otherwise:

- (1) “Department” means the Department of Public Health.
- (2) “Local health authority” means the full-time official health department or board of health, as recognized by the Department, having jurisdiction over a particular area.
- (3) “Sexually transmissible disease” means a bacterial, viral, fungal or parasitic disease, determined by rule of the Department to be sexually transmissible, to be a threat to the public health and welfare, and to be a disease for which a legitimate public interest will be served by providing for regulation and treatment. In considering which diseases are to be designated sexually transmissible diseases, the Department shall consider such diseases as chancroid, gonorrhea, granuloma inguinale, lymphogranuloma venereum, genital herpes simplex, chlamydia, nongonococcal urethritis (NGU), pelvic inflammatory disease (PID)/Acute Salpingitis, syphilis, Acquired Immunodeficiency Syndrome (AIDS), and Human Immunodeficiency Virus (HIV) for designation, and shall consider the recommendations and classifications of the Centers for Disease Control and other nationally recognized medical authorities. Not all diseases that are sexually transmissible need be designated for purposes of this Act.
- (4) “Health care professional” means a physician licensed to practice medicine in all its branches, a physician assistant who has been delegated the provision of sexually transmissible disease therapy services or expedited partner therapy services by his or her supervising physician, or an advanced practice nurse who has a written collaborative agreement with a collaborating physician that authorizes the provision of sexually transmissible disease therapy services or expedited partner therapy services, or an advanced practice nurse who practices in a hospital or ambulatory surgical treatment center and possesses appropriate clinical privileges in accordance with the Nurse Practice Act.
- (5) “Expedited partner therapy” means to prescribe, dispense, furnish, or otherwise provide prescription antibiotic drugs to the partner or partners of persons clinically diagnosed as infected with a sexually transmissible disease, without physical examination of the partner or partners.

## IL ST CH 410 § 70/5. Minimum requirements for hospitals providing hospital...

- (a) Every hospital providing hospital emergency services and forensic services to sexual assault survivors under this Act shall, as minimum requirements for such services, provide, with the consent of the sexual assault survivor, and as ordered by the attending physician, an advanced practice nurse who has a written collaborative agreement with a collaborating physician that authorizes provision of emergency services, or a physician assistant who has been delegated authority to provide hospital emergency services and forensic services, the following:
  - (1) appropriate medical examinations and laboratory tests required to ensure the health, safety, and welfare of a sexual assault survivor or which may be used as evidence in a criminal proceeding against a person accused of the sexual assault, or both; and records of the results of such examinations and tests shall be maintained by the hospital and made available to law enforcement officials upon the request of the sexual assault survivor;

- (2) appropriate oral and written information concerning the possibility of infection, sexually transmitted disease and pregnancy resulting from sexual assault;
  - (3) appropriate oral and written information concerning accepted medical procedures, medication, and possible contraindications of such medication available for the prevention or treatment of infection or disease resulting from sexual assault;
  - (4) an amount of medication for treatment at the hospital and after discharge as is deemed appropriate by the attending physician, an advanced practice nurse, or a physician assistant and consistent with the hospital's current approved protocol for sexual assault survivors;
  - (5) an evaluation of the sexual assault survivor's risk of contracting human immunodeficiency virus (HIV) from the sexual assault;
  - (6) written and oral instructions indicating the need for follow-up examinations and laboratory tests after the sexual assault to determine the presence or absence of sexually transmitted disease;
  - (7) referral by hospital personnel for appropriate counseling; and
  - (8) when HIV prophylaxis is deemed appropriate, an initial dose or doses of HIV prophylaxis, along with written and oral instructions indicating the importance of timely follow-up healthcare.
- (b) Any person who is a sexual assault survivor who seeks emergency hospital services and forensic services or follow-up healthcare under this Act shall be provided such services without the consent of any parent, guardian, custodian, surrogate, or agent.
- (c) Nothing in this Section creates a physician-patient relationship that extends beyond discharge from the hospital emergency department.

## INDIANA

### IN ST 16-41-13. 1 Notice requirement

Sec. 1. (a) The attending physician or health care provider shall prepare and attach to the body of a deceased individual a conspicuous notice with the statement: "Observe Body Fluid Precautions" whenever the physician or provider knows that at least one (1) of the following disease processes was present in the deceased at the time of death:

- (1) Hepatitis (Types B, non A, non B).
- (2) Human immunodeficiency virus (HIV) infection (acquired immune deficiency syndrome and AIDS related complex).
- (3) Tuberculosis.
- (3) Herpes.
- (4) Gonorrhea.
- (5) Syphilis (primary and secondary).
- (6) Burkett's lymphoma.
- (7) Kaposi's sarcoma.
- (8) Arthropod-borne viral diseases.
- (9) Babesiosis.
- (10) Creutzfeldt-Jakob disease.
- (11) Leptospirosis.
- (12) Malaria.
- (13) Rat-bite fever.
- (14) Relapsing fever.
- (15) Pestis.
- (16) Hemorrhagic fevers.
- (17) Rabies.
- (18) Any other communicable disease (as defined in IC 16-41-2).

(b) The notice required in this chapter must accompany the body when the body is picked up for disposition.

### IN ST 16-41-14-5. Disease testing; reports

Sec. 5. (a) Except as provided in subsection (e) and section 7 of this chapter, a practitioner shall test each donor of semen for the following diseases before the donor provides a donation:

- (1) Syphilis.
- (2) Hepatitis B surface antigen and core antibody.
- (3) HIV antibody.

(b) Except as provided in section 7 of this chapter, a practitioner shall test each recipient initially and at least annually as long as artificial insemination procedures are continuing for the following diseases:

- (1) Syphilis.
- (2) Hepatitis B surface antigen.
- (3) HIV antibody.

- (c) A practitioner shall perform or arrange for a confirmatory test for HIV antibody if the initial screening test for HIV antibody yields positive results.
- (d) The practitioner shall report the information required under IC 16-41-2 when a test performed under subsection (c) confirms the presence of a disease required to be reported to the state department.
- (e) If a practitioner states in writing that a person has a disease or will soon undergo medical treatment that may damage the person's:
  - (1) ability to donate semen; or
  - (2) semen;

the practitioner shall allow the person to donate semen before performing the tests required under subsection (a).

### **IN ST 16-41-15-2. Standard serological test for syphilis**

Sec. 2. As used in this chapter, "standard serological test for syphilis" means a test recognized as a standard serological test for syphilis by the state department.

### **IN ST 16-41-8-5. Potentially disease transmitting offenses**

<This version of section effective July 1, 2014. See, also, version of this section effective until July 1, 2014.>

Sec. 5. (a) This section does not apply to medical testing of an individual for whom an indictment or information is filed for a sex crime and for whom a request to have the individual tested under section 6 of this chapter is filed.

(b) The following definitions apply throughout this section:

- (1) "Bodily fluid" means blood, human waste, or any other bodily fluid.
- (2) "Dangerous disease" means any of the following:
  - (A) Chancroid.
  - (B) Chlamydia.
  - (C) Gonorrhea.
  - (D) Hepatitis.
  - (E) Human immunodeficiency virus (HIV).
  - (F) Lymphogranuloma venereum.
  - (G) Syphilis.
  - (H) Tuberculosis.
- (3) "Offense involving the transmission of a bodily fluid" means any offense (including a delinquent act that would be a crime if committed by an adult) in which a bodily fluid is transmitted from the defendant to the victim in connection with the commission of the offense.

- (c) This subsection applies only to a defendant who has been charged with a potentially disease transmitting offense. At the request of an alleged victim of the offense, the parent, guardian, or custodian of an alleged victim who is less than eighteen (18) years of age, or the parent, guardian, or custodian of an alleged victim who is an endangered adult (as defined in IC 12-10-3-2), the prosecuting attorney shall petition a court to order a defendant charged with the commission of a potentially disease transmitting offense to submit to a screening test to determine whether the defendant is infected with a dangerous disease. In the petition, the prosecuting attorney must set forth information demonstrating that the defendant has committed a potentially disease transmitting offense. The court shall set the matter for hearing not later than forty-eight (48) hours after the prosecuting attorney files a petition under this subsection. The alleged victim, the parent, guardian, or custodian of an alleged victim who is less than eighteen (18) years of age, and the parent, guardian, or custodian of an alleged victim who is an endangered adult (as defined in IC 12-10-3-2) are entitled to receive notice of the hearing and are entitled to attend the hearing. The defendant and the defendant's counsel are entitled to receive notice of the hearing and are entitled to attend the hearing. If, following the hearing, the court finds probable cause to believe that the defendant has committed a potentially disease transmitting offense, the court may order the defendant to submit to a screening test for one (1) or more dangerous diseases. If the defendant is charged with battery (IC 35-42-2-1(b)(2)), the court may limit testing under this subsection to a test only for human immunodeficiency virus (HIV). However, the court may order additional testing for human immunodeficiency virus (HIV) as may be medically appropriate. The court shall take actions to ensure the confidentiality of evidence introduced at the hearing.
- (d) This subsection applies only to a defendant who has been charged with an offense involving the transmission of a bodily fluid. At the request of an alleged victim of the offense, the parent, guardian, or custodian of an alleged victim who is less than eighteen (18) years of age, or the parent, guardian, or custodian of an alleged victim who is an endangered adult (as defined in IC 12-10-3-2), the prosecuting attorney shall petition a court to order a defendant charged with the commission of an offense involving the transmission of a bodily fluid to submit to a screening test to determine whether the defendant is infected with a dangerous disease. In the petition, the prosecuting attorney must set forth information demonstrating that:
- (1) the defendant has committed an offense; and
  - (2) a bodily fluid was transmitted from the defendant to the victim in connection with the commission of the offense.

The court shall set the matter for hearing not later than forty-eight (48) hours after the prosecuting attorney files a petition under this subsection. The alleged victim of the offense, the parent, guardian, or custodian of an alleged victim who is less than eighteen (18) years of age, and the parent, guardian, or custodian of an alleged victim who is an endangered adult (as defined in IC 12-10-3-2) are entitled to receive notice of the hearing and are entitled to attend the hearing. The defendant and the defendant's counsel are entitled to receive notice of the hearing and are entitled to attend the hearing. If, following the hearing, the court finds probable cause to believe that the defendant has committed an offense and that a bodily fluid was transmitted from the defendant to the alleged victim in connection with the commission of the offense, the court may order the defendant to submit to a screening test for one (1) or more dangerous diseases. If the defendant is charged with battery (IC 35-42-2-1(b) (2)), the court may limit testing under this subsection to a test only for human immunodeficiency virus (HIV). However, the court may order additional testing for human immunodeficiency virus (HIV) as may be medically appropriate. The court shall take actions to ensure the confidentiality of evidence introduced at the hearing.

- (e) The testimonial privileges applying to communication between a husband and wife and between a health care provider and the health care provider's patient are not sufficient grounds for not testifying or providing other information at a hearing conducted in accordance with this section.
- (f) A health care provider (as defined in IC 16-18-2-163) who discloses information that must be disclosed to comply with this section is immune from civil and criminal liability under Indiana statutes that protect patient privacy and confidentiality.
- (g) The results of a screening test conducted under this section shall be kept confidential if the defendant ordered to submit to the screening test under this section has not been convicted of the potentially disease transmitting offense or offense involving the transmission of a bodily fluid with which the defendant is charged. The results may not be made available to any person or public or private agency other than the following:
  - (1) The defendant and the defendant's counsel.
  - (2) The prosecuting attorney.
  - (3) The department of correction or the penal facility, juvenile detention facility, or secure private facility where the defendant is housed.
  - (4) The alleged victim or the parent, guardian, or custodian of an alleged victim who is less than eighteen (18) years of age, or the parent, guardian, or custodian of an alleged victim who is an endangered adult (as defined in IC 12-10-3-2), and the alleged victim's counsel.

The results of a screening test conducted under this section may not be admitted against a defendant in a criminal proceeding or against a child in a juvenile delinquency proceeding.

- (h) As soon as practicable after a screening test ordered under this section has been conducted, the alleged victim or the parent, guardian, or custodian of an alleged victim who is less than eighteen (18) years of age, or the parent, guardian, or custodian of an alleged victim who is an endangered adult (as defined in IC 12-10-3-2), and the victim's counsel shall be notified of the results of the test.
- (i) An alleged victim may disclose the results of a screening test to which a defendant is ordered to submit under this section to an individual or organization to protect the health and safety of or to seek compensation for:
  - (1) the alleged victim;
  - (2) the alleged victim's sexual partner; or
  - (3) the alleged victim's family.
- (j) The court shall order a petition filed and any order entered under this section sealed. (k) A person that knowingly or intentionally:
  - (1) receives notification or disclosure of the results of a screening test under this section; and
  - (2) discloses the results of the screening test in violation of this section; commits a Class B misdemeanor.

### **IN ST 20-34-4-3. Parental notification of required immunization; exceptions**

Sec. 3. (a) Each school shall notify each parent of a student who enrolls in the school of the requirement that the student must be immunized and that the immunization is required for the student's continued enrollment, attendance, or residence at the school unless:

- (1) the parent or student provides the appropriate documentation of immunity;
- (2) for chicken pox, the parent or student provides a written signed statement that the student has indicated a history of chicken pox; or
- (3) IC 20-34-3-2 or IC 20-34-3-3 applies.

(b) A school that enrolls grade 6 female students shall provide each parent of a female student who is entering grade 6 with information prescribed by the state department of health under subsection (c) concerning the link between cervical cancer and the human papillomavirus (HPV) infection and that an immunization against the human papillomavirus (HPV) infection is available.

(c) The state department of health shall provide a school described in subsection (b) with the information concerning cervical cancer and the human papillomavirus (HPV) infection required in subsection (b). The information must include the following:

- (1) The latest scientific information on the immunization against the human papillomavirus (HPV) infection and the immunization's effectiveness against causes of cervical cancer.
- (2) That a pap smear is still critical for the detection of precancerous changes in the cervix to allow for treatment before cervical cancer develops.
- (3) Information concerning the means in which the human papillomavirus (HPV) infection is contracted.
- (4) A statement that any questions or concerns concerning immunizing the child against human papillomavirus (HPV) could be answered by contacting a health care provider.

### **IN ST 20-34-4-5.5. Human papillomavirus (HPV) immunization; receipt of...**

Sec. 5.5. (a) Each school that enrolls grade 6 female students shall require the parent of a female student entering grade 6 to furnish not later than the twenty (20) school days after the first day of school a written statement prescribed by the state department of health under subsection (b) stating that the parent has received the information required under section 3(b) of this chapter and that:

- (1) the student has received or is receiving the immunization;
- (2) the parent has decided not to have the student immunized; or
- (3) the parent chooses not to provide the information to the school concerning whether the student was immunized; against the human papillomavirus (HPV) infection.

(b) The state department of health shall prescribe the format for the written statement required under subsection (a).

(c) A student may not be prevented from enrolling in, attending, or graduating from school for the sole reason that the student has not provided the school with the written statement required under this section.

## **IN ST 31-11-4-5. Distribution of information concerning dangerous...**

Sec. 5. (a) The clerk of the circuit court shall distribute to marriage license applicants written information or videotaped information approved by the AIDS advisory council of the state department of health concerning dangerous communicable diseases that are sexually transmitted.

(b) Written information and videotaped information distributed by each clerk of the circuit court under subsection (a) must provide current information on human immunodeficiency virus (HIV) infection and other dangerous communicable diseases that are sexually transmitted. The information must include an explanation of the following:

- (1) The etiology of dangerous communicable diseases that are sexually transmitted.
- (2) The behaviors that create a high risk of transmission of such diseases.
- (3) Precautionary measures that reduce the risk of contracting such diseases.
- (4) The necessity for consulting medical specialists if infection is suspected.

(c) At the time of application for a marriage license, each clerk of the circuit court shall:

- (1) provide the marriage license applicants with written information furnished under subsection (a) concerning dangerous communicable diseases that are sexually transmitted; or
- (2) show the marriage license applicants videotaped information furnished under subsection (a) concerning dangerous communicable diseases that are sexually transmitted.

(d) In addition to the information provided to marriage license applicants under subsection (c), each clerk of the circuit court shall inform each marriage license applicant that the applicant may be tested on a voluntary basis for human immunodeficiency virus (HIV) infection by the applicant's private physician or at another testing site. The clerk shall provide the marriage applicants with a list of testing sites in the community.

(e) An applicant who objects to the written information or videotaped information on religious grounds is not required to receive the information.

(f) If materials required by this section are not prepared by other sources, the state department of health shall prepare the materials.

(g) The provider of the materials is responsible for all costs involved in the development, preparation, and distribution of the information required by this section. Except for the materials developed by the state, the state and county are not liable for the costs of materials used to implement this section and section 4 of this chapter.

## IOWA

### IA ST § 135.11. Duties of department

<[Text subject to final changes by the Iowa Code Editor for Code Supp. 2013.]> The director of public health shall be the head of the “Iowa Department of Public Health”, which shall:

1. Exercise general supervision over the public health, promote public hygiene and sanitation, prevent substance abuse and unless otherwise provided, enforce the laws relating to the same.
2. Conduct campaigns for the education of the people in hygiene and sanitation.
3. Issue monthly health bulletins containing fundamental health principles and other health data deemed of public interest.
4. Make investigations and surveys in respect to the causes of disease and epidemics, and the effect of locality, employment, and living conditions upon the public health. For this purpose the department may use the services of the experts connected with the state hygienic laboratory at the state university of Iowa.
5. Establish stations throughout the state for the distribution of antitoxins and vaccines to physicians, druggists, and other persons, at cost. All antitoxin and vaccine thus distributed shall be labeled “Iowa Department of Public Health”.
6. Exercise general supervision over the administration and enforcement of the sexually transmitted diseases and infections law, chapter 139A, subchapter II.
7. Exercise sole jurisdiction over the disposal and transportation of the dead bodies of human beings and prescribe the methods to be used in preparing such bodies for disposal and transportation. However, the department may approve a request for an exception to the application of specific embalming and disposition rules adopted pursuant to this subsection if such rules would otherwise conflict with tenets and practices of a recognized religious denomination to which the deceased individual adhered or of which denomination the deceased individual was a member. The department shall inform the board of mortuary science of any such approved exception which may affect services provided by a funeral director licensed pursuant to chapter 156.
8. Establish, publish, and enforce rules which require companies, corporations, and other entities to obtain a permit from the department prior to scattering cremated human remains.
9. Exercise general supervision over the administration and enforcement of the vital statistics law, chapter 144.
10. Enforce the law relative to chapter 146 and “Health-related Professions”, Title IV, subtitle 3, excluding chapter 155.
11. Establish and maintain divisions as are necessary for the proper enforcement of the laws administered by the department.

12. Establish, publish, and enforce rules not inconsistent with law for the enforcement of the provisions of chapters 125 and 155, and Title IV, subtitle 2, excluding chapter 146 and for the enforcement of the various laws, the administration and supervision of which are imposed upon the department.
13. Administer healthy aging and essential public health services by approving grants of state funds to the local boards of health for the purposes of promoting healthy aging throughout the lifespan and enhancing health promotion and disease prevention services, and by providing guidelines for the approval of the grants and allocation of the state funds. Guidelines, evaluation requirements and formula allocation procedures for the services shall be established by the department by rule.
14. Administer chapters 125, 136A, 136C, 139A, 142, 142A, 144, and 147A.
15. Issue an annual report to the governor as provided in section 7E.3, subsection 4.
16. Consult with the office of statewide clinical education programs at the university of Iowa college of medicine and annually submit a report to the general assembly by January 15 verifying the number of physicians in active practice in Iowa by county who are engaged in providing obstetrical care. To the extent data are readily available, the report shall include information concerning the number of deliveries per year by specialty and county, the age of physicians performing deliveries, and the number of current year graduates of the university of Iowa college of medicine and the Des Moines university--osteopathic medical center entering into residency programs in obstetrics, gynecology, and family practice. The report may include additional data relating to access to obstetrical services that may be available.
17. Administer the statewide maternal and child health program and the program for children with disabilities by conducting mobile and regional child health specialty clinics and conducting other activities to improve the health of low-income women and children and to promote the welfare of children with actual or potential conditions which may cause disabilities and children with chronic illnesses in accordance with the requirements of Tit. V of the federal Social Security Act. The department shall provide technical assistance to encourage the coordination and collaboration of state agencies in developing outreach centers which provide publicly supported services for pregnant women, infants, and children. The department shall also, through cooperation and collaborative agreements with the department of human services and the mobile and regional child health specialty clinics, establish common intake proceedings for maternal and child health services. The department shall work in cooperation with the legislative services agency in monitoring the effectiveness of the maternal and child health centers, including the provision of transportation for patient appointments and the keeping of scheduled appointments.
18. Establish, publish, and enforce rules requiring prompt reporting of methemoglobinemia, pesticide poisoning, and the reportable poisonings and illnesses established pursuant to section 139A.21.
19. Collect and maintain reports of pesticide poisonings and other poisonings, illnesses, or injuries caused by selected chemical or physical agents, including methemoglobinemia and pesticide and fertilizer hypersensitivity; and compile and publish, annually, a statewide and county-by-county profile based on the reports.
20. Adopt rules which require personnel of a licensed hospice, of a homemaker-home health aide provider agency which receives state homemaker-home health aide funds, or of an agency which provides respite care services and receives funds to complete a minimum of two hours of training concerning acquired immune deficiency syndrome-related conditions through a program approved by the department. The

rules shall require that new employees complete the training within six months of initial employment and existing employees complete the training on or before January 1, 1989.

21. Adopt rules which require all emergency medical services personnel, firefighters, and law enforcement personnel to complete a minimum of two hours of training concerning acquired immune deficiency syndrome-related conditions and the prevention of human immunodeficiency virus infection.
22. Adopt rules which provide for the testing of a convicted or alleged offender for the human immunodeficiency virus pursuant to sections 915.40 through 915.43. The rules shall provide for the provision of counseling, health care, and support services to the victim.
23. Establish ad hoc and advisory committees to the director in areas where technical expertise is not otherwise readily available. Members may be compensated for their actual and necessary expenses incurred in the performance of their duties. To encourage health consumer participation, public members may also receive a per diem as specified in section 7E.6 if funds are available and the per diem is determined to be appropriate by the director. Expense moneys paid to the members shall be paid from funds appropriated to the department. A majority of the members of such a committee constitutes a quorum.
24. Review and approve mandatory reporter training curricula for those persons who work in a position classification that under law makes the persons mandatory reporters of child or dependent adult abuse and the position classification does not have a mandatory reporter training curriculum approved by a licensing or examining board.
25. Establish and administer a substance abuse treatment facility pursuant to section 135.130.
26. Administer annual grants to county boards of health for the purpose of conducting programs for the testing of private water supply wells, the closing of abandoned private water supply wells, and the renovation or rehabilitation of private water supply wells. Grants shall be funded through moneys transferred to the department from the agriculture management account of the groundwater protection fund pursuant to section 455E.11, subsection 2, paragraph "b", subparagraph (3), subparagraph division (b). The department shall adopt rules relating to the awarding of the grants.
27. Establish and administer, if sufficient funds are available to the department, a program to assess and forecast health workforce supply and demand in the state for the purpose of identifying current and projected workforce needs. The program may collect, analyze, and report data that furthers the purpose of the program. The program shall not release information that permits identification of individual respondents of program surveys.
28. In consultation with the advisory committee for perinatal guidelines, develop and maintain the statewide perinatal program based on the recommendations of the American academy of pediatrics and the American college of obstetricians and gynecologists contained in the most recent edition of the guidelines for perinatal care, and shall adopt rules in accordance with chapter 17A to implement those recommendations. Hospitals within the state shall determine whether to participate in the statewide perinatal program, and select the hospital's level of participation in the program. A hospital having determined to participate in the program shall comply with the guidelines appropriate to the level of participation selected by the hospital. Perinatal program surveys and reports are privileged and confidential and are not subject to discovery, subpoena, or other means of legal compulsion for their

release to a person other than the affected hospital, and are not admissible in evidence in a judicial or administrative proceeding other than a proceeding involving verification of the participating hospital under this subsection.

29. In consultation with the department of corrections, the antibiotic resistance task force, and the American federation of state, county and municipal employees, develop educational programs to increase awareness and utilization of infection control practices in institutions listed in section 904.102.
30. Administer the Iowa youth survey, in collaboration with other state agencies, as appropriate, every two years to students in grades six, eight, and eleven in Iowa's public and nonpublic schools. Survey data shall be evaluated and reported, with aggregate data available online at the Iowa youth survey internet site.
31. Report to the chairpersons and ranking members of the joint appropriations subcommittee on health and human services, the legislative services agency, the legislative caucus staffs, and the department of management within sixty calendar days of applying for or renewing a federal grant which requires a state match or maintenance of effort and has a value of over one hundred thousand dollars. The report shall list the federal funding source and address the potential need for the commitment of state funding in order to match or continue the funding provided by the federal grant in the present or future.

## **IA ST § 139A.2. Definitions**

For purposes of this chapter, unless the context otherwise requires:

1. "Area quarantine" means prohibiting ingress and egress to and from a building or buildings, structure or structures, or other definable physical location, or portion thereof, to prevent or contain the spread of a suspected or confirmed quarantinable disease or to prevent or contain exposure to a suspected or known chemical, biological, radioactive, or other hazardous or toxic agent.
2. "Business" means and includes every trade, occupation, or profession.
3. "Care provider" means an individual who is trained and authorized by federal or state law to provide health care services or services of any kind in the course of the individual's official duties, for compensation or in a voluntary capacity, who is a health care provider, emergency medical care provider as defined in section 147A.1, fire fighter, or peace officer. "Care provider" also means an individual who renders emergency care or assistance in an emergency or due to an accident as described in section 613.17.
4. "Communicable disease" means any disease spread from person to person or animal to person.
5. "Contagious or infectious disease" means hepatitis in any form, meningococcal disease, AIDS or HIV as defined in section 141A.1, tuberculosis, and any other disease determined to be life-threatening to a person exposed to the disease as established by rules adopted by the department, based upon a determination by the state epidemiologist and in accordance with guidelines of the centers for disease control and prevention of the United States department of health and human services.
6. "Department" means the Iowa department of public health.

7. "Designated officer" means a person who is designated by a department, agency, division, or service organization to act as an infection control liaison officer.
8. "Exposure" means a specific eye, mouth, other mucous membrane, nonintact skin, or parenteral contact with blood or other potentially infectious bodily fluids.
9. "Exposure-prone procedure" means a procedure performed by a health care provider which presents a recognized risk of percutaneous injury to the health care provider and if such an injury occurs, the health care provider's blood is likely to contact a patient's body cavity, subcutaneous tissues, or mucous membranes, or an exposure-prone procedure as defined by the centers for disease control and prevention of the United States department of health and human services.
10. "HBV" means hepatitis B virus.
11. "Health care facility" means a health care facility as defined in section 135C.1, an ambulatory surgical center, or a clinic.
12. "Health care provider" means a person licensed to practice medicine and surgery, osteopathic medicine and surgery, chiropractic, podiatry, nursing, dentistry, optometry, or as a physician assistant, dental hygienist, or acupuncturist.
13. "HIV" means HIV as defined in section 141A.1.
14. "Hospital" means hospital as defined in section 135B.1.
15. "Isolation" means the separation of persons or animals presumably or actually infected with a communicable disease or who are disease carriers for the usual period of communicability of that disease in such places, marked by placards if necessary, and under such conditions as will prevent the direct or indirect conveyance of the infectious agent or contagion to susceptible persons.
16. "Local board" means the local board of health.
17. "Local department" means the local health department.
18. "Placard" means a warning sign to be erected and displayed on the periphery of a quarantine area, forbidding entry to or exit from the area.
19. "Public health disaster" means public health disaster as defined in section 135.140.
20. "Quarantinable disease" means any communicable disease designated by rule adopted by the department as requiring quarantine or isolation to prevent its spread.
21. "Quarantine" means the limitation of freedom of movement of persons or animals that have been exposed to a quarantinable disease within specified limits marked by placards for a period of time equal to the longest usual incubation period of the disease in such manner as to prevent the spread of a quarantinable disease which affects people.

22. "Reportable disease" means any disease designated by rule adopted by the department requiring its occurrence to be reported to an appropriate authority.
23. "Sexually transmitted disease or infection" means a disease or infection as identified by rules adopted by the department, based upon a determination by the state epidemiologist and in accordance with guidelines of the centers for disease control and prevention of the United States department of health and human services.
24. "Significant exposure" means a situation in which there is a risk of contracting disease through exposure to a person's infectious bodily fluids in a manner capable of transmitting an infectious agent as determined by the centers for disease control and prevention of the United States department of health and human services and adopted by rule of the department.
25. "Terminal cleaning" means cleaning procedures defined in the isolation guidelines issued by the centers for disease control and prevention of the United States department of health and human services.

### **IA ST § 139A.33. Partner notification program**

1. The department shall maintain a partner notification program for persons known to have tested positive for a reportable sexually transmitted disease or infection.
2. In administering the program, the department shall provide for all of the following:
  - a. A person who voluntarily participates in the program shall receive post-test counseling during which time the person shall be encouraged to refer for counseling and testing any person with whom the person has had sexual relations or has shared drug injecting equipment.
  - b. The physician or other health care provider attending the person may provide to the department any relevant information provided by the person regarding any person with whom the tested person has had sexual relations or has shared drug injecting equipment.
3. The department may delegate its partner notification duties under this section to local health authorities or a physician or other health care provider, as provided by rules adopted by the department.
4. In making contact with sexual or drug equipment-sharing partners, the department or its designee shall not disclose the identity of the person who provided the names of the persons to be contacted and shall protect the confidentiality of the persons contacted.
5.
  - a. This section shall not be interpreted as creating a duty to warn third parties of the danger of exposure to a sexually transmitted disease or infection through contact with a person who tests positive for a sexually transmitted disease.
  - b. This section shall not be interpreted to require the department to provide partner notification services to all persons who have tested positive for a sexually transmitted disease or infection.

## **IA ST § 139A.41. Chlamydia and gonorrhea treatment**

Notwithstanding any other provision of law to the contrary, a physician, physician assistant, or advanced registered nurse practitioner who diagnoses a sexually transmitted chlamydia or gonorrhea infection in an individual patient may prescribe, dispense, furnish, or otherwise provide prescription oral antibiotic drugs to that patient's sexual partner or partners without examination of that patient's partner or partners. If the infected individual patient is unwilling or unable to deliver such prescription drugs to a sexual partner or partners, a physician, physician assistant, or advanced registered nurse practitioner may dispense, furnish, or otherwise provide the prescription drugs to the department or local disease prevention investigation staff for delivery to the partner or partners.

## **IA ST § 141A.7. Test results--counseling--application for services**

1. At any time that the subject of an HIV-related test is informed of confirmed positive test results, counseling concerning the emotional and physical health effects shall be initiated. Particular attention shall be given to explaining the need for the precautions necessary to avoid transmitting the virus. The subject shall be given information concerning additional counseling. If the legal guardian of the subject of the test provides consent to the test pursuant to section 141A.6, the provisions of this subsection shall apply to the legal guardian.
2. Notwithstanding subsection 1, the provisions of this section do not apply to any of the following:
  - a. The performance by a health care provider or health facility of an HIV-related test when the health care provider or health facility procures, processes, distributes, or uses a human body part donated for a purpose specified under the revised uniform anatomical gift Act as provided in chapter 142C, or semen provided prior to July 1, 1988, for the purpose of artificial insemination, or donations of blood, and such test is necessary to ensure medical acceptability of such gift or semen for the purposes intended.
  - b. A person engaged in the business of insurance who is subject to section 505.16.
  - c. The performance by a health care provider or health facility of an HIV-related test when the subject of the test is deceased and a documented significant exposure has occurred.
  - d. The performance by a health care provider or health facility of an HIV-related test when the subject of the test is unable to provide consent and the health care provider or health care facility provides consent for the patient pursuant to section 141A.6.
3. A person may apply for voluntary treatment, contraceptive services, or screening or treatment for HIV infection and other sexually transmitted diseases directly to a licensed physician and surgeon, an osteopathic physician and surgeon, or a family planning clinic. Notwithstanding any other provision of law, however, a minor shall be informed prior to testing that, upon confirmation according to prevailing medical technology of a positive HIV-related test result, the minor's legal guardian is required to be informed by the testing facility. Testing facilities where minors are tested shall have available a program to assist minors and legal guardians with the notification process which emphasizes the need for family support and assists in making available the resources necessary to accomplish that goal. However, a testing facility which is precluded by federal statute, regulation, or centers for disease control and prevention guidelines from informing the legal guardian is exempt from the notification requirement. The minor shall give written consent to these procedures and to receive the services, screening, or treatment. Such consent is not subject to later disaffirmance by reason of minority.

## IA ST § 514C.23. Human papilloma virus vaccinations--coverage

1. Notwithstanding the uniformity of treatment requirements of section 514C.6, a contract, policy, or plan providing for third- party payment or prepayment of health or medical expenses that provides coverage benefits for any vaccination or immunization shall provide coverage benefits for a vaccination for human papilloma virus, including but not limited to the following classes of third-party payment provider contracts, policies, or plans delivered, issued for delivery, continued, or renewed in this state on or after January 1, 2009:
  - a. Individual or group accident and sickness insurance providing coverage on an expense-incurred basis.
  - b. An individual or group hospital or medical service contract issued pursuant to chapter 509, 514, or 514A.
  - c. An individual or group health maintenance organization contract regulated under chapter 514B.
  - d. An individual or group Medicare supplemental policy, unless coverage pursuant to such policy is preempted by federal law.
  - e. A plan established pursuant to chapter 509A for public employees.
2. This section shall not apply to accident-only, specified disease, short-term hospital or medical, hospital confinement indemnity, credit, dental, vision, long-term care, basic hospital and medical-surgical expense coverage as defined by the commissioner, disability income insurance coverage, coverage issued as a supplement to liability insurance, workers' compensation or similar insurance, or automobile medical payment insurance.
3. As used in this section, "human papilloma virus" means the human papilloma virus as defined by the centers for disease control and prevention of the United States department of health and human services.
4. The commissioner of insurance shall adopt rules pursuant to chapter 17A as necessary to administer this section.

## KANSAS

No relevant statutes found

## KENTUCKY

### KY ST § 211.180. Functions of cabinet in the regulation of certain health...

- (1) The cabinet shall enforce the administrative regulations promulgated by the secretary of the Cabinet for Health and Family Services for the regulation and control of the matters set out below and shall formulate, promote, establish, and execute policies, plans, and programs relating to all matters of public health, including but not limited to the following matters:
  - (a) Detection, prevention, and control of communicable diseases, chronic and degenerative diseases, dental diseases and abnormalities, occupational diseases and health hazards peculiar to industry, home accidents and health hazards, animal diseases which are transmissible to man, and other diseases and health hazards that may be controlled;
  - (b) The adoption of regulations specifying the information required in and a minimum time period for reporting a sexually transmitted disease. In adopting the regulations the cabinet shall consider the need for information, protection for the privacy and confidentiality of the patient, and the practical ability of persons and laboratories to report in a reasonable fashion. The cabinet shall require reporting of physician-diagnosed cases of acquired immunodeficiency syndrome based upon diagnostic criteria from the Centers for Disease Control and Prevention of the United States Public Health Service. No later than October 1, 2004, the cabinet shall require reporting of cases of human immunodeficiency virus infection by reporting of the name and other relevant data as requested by the Centers for Disease Control and Prevention and as further specified in KRS 214.645. Nothing in this section shall be construed to prohibit the cabinet from identifying infected patients when and if an effective cure for human immunodeficiency virus infection or any immunosuppression caused by human immunodeficiency virus is found or a treatment which would render a person noninfectious is found, for the purposes of offering or making the cure or treatment known to the patient;
  - (c) The control of insects, rodents, and other vectors of disease; the safe handling of food and food products; the safety of cosmetics; the control of narcotics, barbiturates, and other drugs as provided by law; the sanitation of schools, industrial establishments, and other public and semipublic buildings; the sanitation of state and county fairs and other similar public gatherings; the sanitation of public and semipublic recreational areas; the sanitation of public rest rooms, trailer courts, hotels, tourist courts, and other establishments furnishing public sleeping accommodations; the review, approval, or disapproval of plans for construction, modification, or extension of equipment related to food-handling in food-handling establishments; the licensure of hospitals; and the control of such other factors, not assigned by law to another agency, as may be necessary to insure a safe and sanitary environment;
  - (d) The construction, installation, and alteration of any on-site sewage disposal system, except for a system with a surface discharge;
  - (e) Protection and improvement of the health of expectant mothers, infants, preschool, and school-age children;
  - (f) The practice of midwifery, including the issuance of permits to and supervision of women who practice midwifery; and (g) Protection and improvement of the health of the people through better nutrition.
- (2) The secretary shall have authority to establish by regulation a schedule of reasonable fees, not to exceed twenty dollars (\$20) per inspector hour plus travel costs pursuant to state regulations for travel reimbursement, to cover the costs of inspections of manufacturers, retailers, and distributors of consumer products as defined in the Federal Consumer Product Safety Act, 15 U.S.C. secs. 2051 et seq.; 86 Stat. 1207 et seq. or amendments thereto, and of youth camps for the purpose of determining compliance with the provisions of this section and the regulations adopted by the secretary pursuant thereto. Fees collected by the secretary shall be deposited in the State Treasury and credited to a revolving fund account for the

purpose of carrying out the provisions of this section. The balance of the account shall lapse to the general fund at the end of each biennium.

- (3) Any administrative hearing conducted under authority of this section shall be conducted in accordance with KRS Chapter 13B.

### **KY ST § 214.410. Definitions**

- (1) "Cabinet" means the Cabinet for Health and Family Services; and
- (2) "Sexually transmitted disease" means syphilis, gonorrhea, chancroid, granuloma inguinale, genital herpes, nongonococcal urethritis, mucopurulent cervicitis, acquired immunodeficiency syndrome (AIDS), human immunodeficiency virus (HIV) infection, chlamydia trachomatis infections, and any other sexually transmitted disease designated by the cabinet under the provisions of KRS Chapter 13A.

### **KY ST § 214.420. Records declared confidential; application**

- (1) The General Assembly hereby declares that confidentiality is essential for the proper administration and operation of sexually transmitted disease control activities in this state and that the principle of confidentiality must remain inviolate.
- (2) All information, records, and reports in the possession of local health departments or the Cabinet for Health and Family Services and which concern persons infected with or suspected of being infected with or tested for or identified in an epidemiologic investigation for sexually transmitted disease are hereby declared to be strictly confidential and only personnel of local health departments and the Cabinet for Health and Family Services who are assigned to sexually transmitted disease control activities shall have access to such information, records, and reports.
- (3) Nothing in this section shall be construed as preventing:
  - (a) The release of medical information to the physician retained by the person infected with or suspected of being infected with a sexually transmitted disease;
  - (b) The release of medical or epidemiological data or information for statistical purposes in a manner so that no individual person can be identified;
  - (c) The release of medical information with the written consent of all persons identified in the information to be released;
  - (d) The release of medical or epidemiological information necessary to enforce the provision of the rules and regulations of the Cabinet for Health and Family Services, issued pursuant to KRS Chapter 13A, relating to the control and treatment of sexually transmitted disease; and
  - (e) The release of medical information made to medical personnel in a medical emergency to the extent necessary to protect the health or life of the named party.

## LOUISIANA

### LA R.S. 40:1062. Infection of others prohibited

It is unlawful for any person to inoculate or infect another person in any manner with a venereal disease or to do any act which will expose another to inoculation or infection with a venereal disease.

Notes of Decisions (4)

### LA R.S. 40:1299.141. Definitions

As used in this Part:

- (1) "Autologous donations" means the donation or collection of blood, blood products, or tissue from a patient strictly intended for that patient's own future use.
- (2) "Health care provider" means a person, partnership, corporation, facility, or institution licensed by the state or federal government to provide health care or professional services as a physician, osteopath, hospital, blood bank or tissue bank and/or an officer, employee, or agent thereof acting in the course and scope of his employment.
- (3) "HIV test" means a laboratory test approved by the Department of Health and Hospitals to detect antibodies to the human immunodeficiency virus.
- (4) "Patient" means a natural person who receives health care from a health care provider.
- (5) A "positive reaction" means a positive HIV test with a positive confirmatory test, including, but not limited to the western blot.

### LA R.S. 17:170.3. Immunization information; human papillomavirus

- A. Each city, parish, and other local public school board that provides information relative to immunizations shall provide to the parent or legal guardian of each student in grades six through twelve information relative to the risks associated with human papillomavirus and the availability, effectiveness, and known contraindications of immunization against human papillomavirus. The information shall describe the link between human papillomavirus and cervical cancer, the means by which human papillomavirus is spread, and where a person may be immunized against human papillomavirus. The information shall be updated annually if new information on human papillomavirus becomes available.
- B. (1) The Department of Health and Hospitals shall develop and provide such information to the state Department of Education. The state Department of Education shall provide the information to each city, parish, and other local public school board that provides information relative to immunizations and educates students in grades six through twelve, which shall provide such information to each such student's parent or legal guardian pursuant to Subsection A of this Section. Such information shall include a form on which such student's parent or legal guardian may grant written permission for the student to receive such information directly.

(2) The Department of Health and Hospitals, the state Department of Education, and each such city, parish, and other local public school board shall determine respectively the most cost-effective and efficient means of distributing such information.

C. The Department of Health and Hospitals, in consultation with the state Department of Education, shall establish by rules and regulations adopted in accordance with the Administrative Procedure Act all guidelines and procedures for carrying out the provisions of this Section.

D. (1) Nothing in this Section shall be construed to require any city, parish, or other local public school board, the state Department of Education, or the Department of Health and Hospitals to provide or pay for immunizations against human papillomavirus.

(2) Nothing in this Section shall be construed to require any person to be immunized against human papillomavirus.

### LA R.S. 40:29. State health laboratories; fee schedule

A. Except as provided in duly promulgated rules and regulations, each laboratory operated by the office of public health of the Department of Health and Hospitals on a statewide, regional, or parish basis whether in connection with a parish health unit or independently operated by the office as a state laboratory shall not perform any test, procedure, function, or any operation unless the office charges and receives payment of a fee for such test, procedure, function, or operation as is required by the fee schedule provided in this Section.

B. The fee schedule provided in this Section shall not apply and no such fee shall be charged:

(1) To the office of public health of the Department of Health and Hospitals or a patient at a parish health unit or to any physician, hospital, clinic, nurse, or any other individual who is treating a patient of the office of public health or a parish health unit in an official capacity unless payment of such fee is required by rules and regulations duly promulgated pursuant to Subsection D of this Section.

(2) For the diagnosis of tuberculosis or venereal disease.

(3) In any instance when the state health officer declares an epidemic, for any test, procedure, function, or operation related to such epidemic.

(4) If exemption from payment is otherwise provided by the state sanitary code.

(5) To any state hospital or institution when the secretary of the Department of Health and Hospitals requires the office of public health or a parish health unit laboratory to act for such institution in case of emergency.

C. The schedule of fees required by this Section shall be as follows and the appropriate fee or fees as provided by this fee schedule shall be charged for any test, procedure, function, or operation performed by a state, regional, or parish health unit laboratory operated by the office of public health, on specimens, cultures, or procedures which are submitted by any physician, hospital, clinic, nurse, veterinarian, or any other individual, except as otherwise provided in this Section:

Test Description	Fee
(1) Ab identification, RBC each panel, each serum technique	\$57.00
(2) Ab screen, RBC each serum technique	\$21.00

(3)	Adenovirus Ab	\$18.00
(4)	Alpha fetal protein (amniotic fluid)	\$22.00
(5)	Alpha fetal protein (serum)	\$22.00
(6)	Antibiotic disc test	\$4.00
(7)	Blood-hemogram, automated and a manual differential WBC (CBC)	\$8.00
(8)	Blood-RBC antigen other than ABO and Rh(D), each antigen	\$5.00
(9)	Blood-Rh (D) antigen	\$19.00
(10)	Blood-typing, ABO	\$4.00
(11)	Bordetella parapertusis Ab	\$19.00
(12)	Bordetella pertusis antigen	\$12.00
(13)	Bordetella pertusis culture	\$11.00
(14)	Borelia Ab IgG (relapsing fever)	\$19.00
(15)	Borelia Ab IgM (relapsing fever)	\$19.00
(16)	Borelia Ab total (relapsing fever)	\$19.00
(17)	Brucella abortus Ab	\$14.00
(18)	Chlamydia Ab (LGV)	\$18.00
(19)	Chlamydia testing by DNA gene probe, each probe used	\$18.00
(20)	Clinical chemistries/21 tests + amylase	\$15.00
(21)	Corynebacterium diptheriae culture (throat or nose)	\$11.00
(22)	Coxiella brunetti (Q fever) Phase 1-IgG and IgM	\$18.00
(23)	Coxiella brunetti (Q fever) Phase 2-IgG and IgM	\$18.00
(24)	Cryptococcus Ab	\$21.00
(25)	Culture typing, precipitin method (grouping) per antiserum	\$7.00
(26)	Culture typing, serologic method, agg grouping, per antiserum	\$7.00
(27)	Culture typing, serologic method, speciation	\$5.00
(28)	Culture, Bact, screen, stool	\$13.00
(29)	Culture Bact, anaerobe, ID, any source without GLC	\$11.00
(30)	Culture Bact, ID, aerobe, any source	\$11.00
(31)	Culture, Bact, screen (aerobic and anaerobic plates)	\$15.00
(32)	Culture, Bact, screen, other source	\$12.00
(33)	Culture, Bact, screen, throat or nose	\$11.00
(34)	Culture, Bacti, anaerobe, isolation, any source	\$13.00
(35)	Culture, Bacti, ID anaerobe with GLC	\$20.00
(36)	Culture, Bacti, ID any source, in addition to primary culture	\$8.00
(37)	Culture, Bacti, ID presumptive, any source, multiple organism	\$12.00
(38)	Culture, Bacti, ID presumptive, any source, single organism	\$10.00
(39)	Culture, Bacti, ID screen, any source single organism	\$9.00
(40)	Culture, Bacti, ID, screen, multiple organisms	\$12.00
(41)	Culture, Bacti, ID, urine	\$9.00
(42)	Cytomegalovirus (CMV) Ab IgG	\$20.00
(43)	Cytomegalovirus (CMV) Ab IgM	\$20.00
(44)	Dengue fever Ab	\$18.00
(45)	Encephalitis testing in birds (per viral study)	\$19.00
(46)	Encephalitis, Eastern equine IgG	\$19.00
(47)	Encephalitis, Eastern equine IgM	\$19.00
(48)	Encephalitis, La Crose (California) IgG	\$19.00

(49)	Encephalitis, La Crose (California) IgM	\$19.00
(50)	Encephalitis, Saint Louis IgG	\$19.00
(51)	Encephalitis, Saint Louis IgM	\$19.00
(52)	Encephalitis, Western Equine IgG	\$19.00
(53)	Encephalitis, Western Equine IgM	\$19.00
(54)	Enterovirus Ab (eg coxsckie, echo, polio)	\$ 19.00
(55)	Erlichia AB	\$18.00
(56)	Estradiol assay	\$52.00
(57)	Flourescent Ab screen, each Ab (Bordatella)	\$18.00
(58)	Flourescent Ab titer, each Ab	\$17.00
(59)	Flourescent antibody (direct) (rabies DFA)	\$18.00
(60)	Fluorescent antibody (indirect)	\$34.00
(61)	Flourescent antibody - double stain	\$8.00
(62)	Follicle stimulating hormone (FSH)	\$35.00
(63)	Francisella tularensis Ab	\$15.00
(64)	Glucose quantitative	\$7.00
(65)	Hepatitis, anti-A	\$18.00
(66)	Hepatitis, anti-C	\$18.00
(67)	Hepatitis, anti-HBc total	\$17.00
(68)	Hepatitis, anti-HBe	\$18.00
(69)	Hepatitis, anti-HBs	\$15.00
(70)	Hepatitis, HBe Ag	\$16.00
(71)	Hepatitis, HBs Ag	\$15.00
(72)	Herpes I group IgG	\$19.00
(73)	Herpes II group IgG	\$19.00
(74)	Herpes II group IgM	\$19.00
(75)	Herpes simplex Type 1 and 2 Ab differential	\$20.00
(76)	HIV-Dry Blood Spot analysis	\$6.00
(77)	HIV-1 EIA	\$13.00
(78)	HIV-1 WB	\$28.00
(79)	Human arbovirus IgG	\$18.00
(80)	Human arbovirus IgM	\$18.00
(81)	Human chorionic gonadotropic (hCG) pregnancy test-quantitative	\$21.00
(82)	Human chorionic gonadotropic (hCG) pregnancy test-qualitative	\$11.00
(83)	Human rickettsia IgG	\$10.00
(84)	Human rickettsia IgM	\$10.00
(85)	Influenza A Ab	\$20.00
(86)	Influenza B Ab IgG	\$20.00
(87)	Legionella Ab	\$21.00
(88)	Leptospiroza Ab	\$19.00
(89)	Leutinizing hormone assay	\$36.00
(90)	Lipoproteins HDL cholesterol	\$14.00
(91)	Lipoproteins triglycerides	\$11.00
(92)	Lymes-(borellia burgdorferi) IgG	\$22.00
(93)	Lymes-(borellia burgdorferi) IgM	\$22.00
(94)	Meningoencephalytic Ab (adult)	\$18.00

(95)	Meningoencephalytic Ab (childhood)	\$18.00
(96)	Mumps virus Ab	\$19.00
(97)	Mycoplasma pneumonia Ab	\$19.00
(98)	Neisseria gonorrhoeae testing by DNA gene probe	\$18.00
(99)	Newborn screening panel	\$31.00
(100)	Parainfluenza I Ab	\$18.00
(101)	Parainfluenza II Ab	\$18.00
(102)	Parainfluenza III Ab	\$18.00
(103)	Parasite large volume filtration	\$47.00
(104)	Polio virus Ab-Type I	\$19.00
(105)	Polio virus Ab-Type II	\$19.00
(106)	Polio virus Ab-Type III	\$19.00
(107)	Prolactin assay	\$36.00
(108)	R. rickettsia Ab to antigen (Rocky Mountain spotted fever)IgG or IgM	\$18.00
(109)	R. typhi Ab (typhus fever) IgG or IgM	\$18.00
(110)	Rabies analysis	\$73.00
(111)	Reovirus Ab	\$18.00
(112)	Respiratory syncytial virus (RSV) Ab	\$18.00
(113)	Rheumatoid factor - qualitative (latex)	\$8.00
(114)	Rheumatoid factor - quantitative	\$8.00
(115)	Rotavirus Ab	\$19.00
(116)	Rubella (German measles) Ab, IgG	\$20.00
(117)	Rubella (German measles) Ab, IgM	\$20.00
(118)	Rubeola (red measles) Ab, IgG	\$18.00
(119)	Rubeola (red measles) Ab, IgM	\$18.00
(120)	Sensitivity study; antibiotics, disk method, per plate (12)	\$10.00
(121)	Smear with interpretation	\$6.00
(122)	Syphilis test VDRL qualitative (serum and CSF)	\$6.00
(123)	Syphilis test VDRL quantitative, MHA-TP (serum and CSF)	\$6.00
(124)	T cells including cell ratio	\$54.00
(125)	TB panel (bilirubin, AST, uric acid, creatinine)	\$11.00
(126)	TB screen-AST	\$7.00
(127)	TB, AFB, antibiotic sensitivities, each drug (includes culture)	\$8.00
(128)	TB-AFB smear	\$8.00
(129)	TB-concentration and isolation of mycobacteria, each	\$16.00
(130)	TB-DNA probe identification of AFB cultures	\$18.00
(131)	TB-HPLC ident of mycobacterium	\$26.00
(132)	Tissue culture studies	\$163.00
(133)	TORCH Ab (CMV, Herpes, Rubella, Toxo) IgG	\$82.00
(134)	TORCH Ab (CMV, Herpes, Rubella, Toxo) IgM	\$82.00
(135)	Toxoplasma Ab, IgG	\$18.00
(136)	Toxoplasma Ab, IgM	\$21.00
(137)	Treponema pallidum Ab-confirmatory test FTA-ABS	\$19.00
(138)	Typhus in rats-antigen to antibody	\$10.00
(139)	Varicella zoster Ab, IgG	\$18.00
(140)	Vibrio cholerae ID	\$93.00

(141)	Vibrio vulnificus ID	\$47.00
(142)	Viral load studies for HIV	\$121.00
(143)	Virus ID-tissue cult. additional studies, each isolate	\$34.00
(144)	Virus ID-tissue cult. inoculation and observation	\$37.00
(145)	Virus ID-tissue cult. inoculation of egg/small animal, observation	\$28.00
(146)	Yersinia pestis (plague) study in rats, includes slide prep. animal inoculation, plague demonstration	\$154.00
(147)	Any public health biochemistry procedure not expressly stated will be charged based on the cost per unit of time (work time unit or WTU) as calculated by the fiscal department of the office of public health	\$1.75
(148)	Any public health microbiology procedure not expressly stated will be charged based on the cost per unit of time (work time unit or WTU) as calculated by the fiscal department of the office of public health	\$1.75
(149)	Any public health serology procedure not expressly stated will be charged based on the cost per unit of time (work time unit or WTU) as calculated by the fiscal department of the office of public health	\$1.75
(150)	Any public health virology procedure not expressly stated will be charged based on the cost per unit of time (work time unit or WTU) as calculated by the fiscal department of the office of public health	\$1.75
(151)	Any research procedure not expressly stated will be charged based on the cost per unit of time (work time unit or WTU) as calculated by the fiscal department of the office of public health	\$1.75
(152)	A-1 (FC MPN)	\$20.00
(153)	Adipates/Phthalates	\$160.00
(154)	Alfatoxins (HPLC)	\$119.00
(155)	Alfatoxins (screen)	\$40.00
(156)	Alkalinity (total)	\$9.00
(157)	Aluminum	\$16.00
(158)	Antibiotic disc assay	\$16.00
(159)	Antibiotic sensitivity study/antibiotic	\$6.00
(160)	Antimony	\$33.00
(161)	Arsenic	\$16.00
(162)	Barium	\$16.00
(163)	Beryllium	\$16.00
(164)	BOD-5 day (manual)	\$160.00
(165)	BOD-automated robotic testing	\$26.00
(166)	Bottled and vended waters-colilert	\$4.00
(167)	Bottled water-herbicides	\$237.00
(168)	Bottled water-trihalomethanes (THM)	\$33.00
(169)	Bottled water-VOC (P/T)	\$172.00
(170)	Butter analysis	\$121.00
(171)	Butterfat, babcock	\$27.00
(172)	Butterfat, roese-gotlieb (confirmation)	\$92.00
(173)	Butterfats and nonfat solids	\$32.00
(174)	C. jejeuni and C. campylobacter-environmental	\$33.00
(175)	Cadmium	\$16.00
(176)	Cadmium in foods	\$3.00

(177) Caffeine	\$79.00
(178) Calcium hardness	\$8.00
(179) Carbamates	\$200.00
(180) Caustics	\$11.00
(181) Cereal analysis-qualitative	\$1.00
(182) Cereal analysis-quantitative	\$32.00
(183) Charm I; App N antibiotic testing	\$13.00
(184) Charm II; App N antibiotic testing-cloxacillin	\$13.00
(185) Charm II; App N antibiotic testing-other	\$13.00
(186) Charm II; App N antibiotic testing-quantitative	\$40.00
(187) Charm II; App N antibiotic testing-sequential	\$13.00
(188) Chemical oxygen demand (COD)	\$80.00
(189) Chloride %-hypochlorites and chloramines (screen)	7.00
(190) Chloride %; hypochlorites and chloramines (confirmation)	\$21.00
(191) Chlorides	\$7.00
(192) Chromium	\$17.00
(193) Coffee (chicory)	\$4.00
(194) Coliform determinations-confirmed (includes MPN for coliform and fecal coliform)	\$31.00
(195) Coliform determinations-E. coli (verified) each isolate	\$13.00
(196) Coliform determinations-fecal	\$8.00
(197) Coliform determinations-fecal by MPN (includes presumptive, completed, and confirmed tests)	\$45.00
(198) Coliform determinations-fecal coliforms (includes coliform and E. coli MPN)	\$31.00
(199) Colilert	\$8.00
(200) Color	\$5.00
(201) Color and preservatives in food	\$80.00
(202) Compliance analysis of nutritional content and labeling	\$13.00
(203) Conductivity	\$7.00
(204) Copper flame AA	\$9.00
(205) Copper ICAP	\$4.00
(206) Corrosion control (copper, lead, pH, alkalinity, THRD)	\$53.00
(207) Cosmetics (organoleptics, net weight, filth, and foreign materials)	\$13.00
(208) Cryoscope (added water)	\$8.00
(209) Cyanide	\$160.00
(210) Dairy waters-MTF	\$19.00
(211) Diquat	\$200.00
(212) Dissolved oxygen (DO)	\$8.00
(213) Drained weight analysis	\$7.00
(214) Dry skim milk-qualitative	\$3.00
(215) Dry skim milk-quantitative	\$119.00
(216) Dual column (confirmation)	\$33.00
(217) E. coli 015:H7	\$27.00
(218) E. coli MPN	\$31.00
(219) E. coli speciation	\$20.00
(220) Endothall	\$253.00
(221) Ethylene dibromide (EDB)	\$133.00

(222)	Etiological agent ID for consumer food, beverage	\$100.00
(223)	Fecal coliform MPN (includes presumptive, completed, and confirmed tests)	\$31.00
(224)	Filth and foreign (filter)	\$5.00
(225)	Filth and foreign (macro)	\$5.00
(226)	Filth and foreign (micro)	\$7.00
(227)	Filth and foreign (trap/sv)	\$389.00
(228)	Fluoride analysis	\$20.00
(229)	Fluorides	\$11.00
(230)	Foreign fat (R1)	\$4.00
(231)	Formaldehyde testing (AIR)	\$409.00
(232)	Fossomatic CC	\$12.00
(233)	Fossomatic OSCC	\$13.00
(234)	Free CO2	\$12.00
(235)	Gamma screen	\$26.00
(236)	GC/MS confirmation	\$479.00
(237)	General chemistry (organoleptic, net weight, filth, and foreign materials)	\$16.00
(238)	Glycol/recirculating water (10-tube MPN)	\$13.00
(239)	Glycol/Recirculating water (HPC)	\$8.00
(240)	Glyphosphate	\$160.00
(241)	Gross alpha and beta (radon 222, radium 226, radium 228, radon, uranium)	\$67.00
(242)	Heavy metal (ICAP)	\$100.00
(243)	Heavy metals (includes Hg)	\$180.00
(244)	Herbicides	\$ 240.00
(245)	Heterotrophic plate count (HPC)	\$8.00
(246)	Inorganic chemicals	\$299.00
(247)	Iodine 131	\$396.00
(248)	Iron	\$17.00
(249)	Iron and alumina oxide	\$33.00
(250)	Lead-other analysis by furnace atomic absorption	\$55.00
(251)	Lead analysis (wipes)	\$20.00
(252)	Lead analysis in water/chemistry	\$20.00
(253)	Lead analysis in waters-schools, day care, water coolers, faucets	\$20.00
(254)	Lead analysis of paint	\$40.00
(255)	Lead and copper analysis for private residence water	\$23.00
(256)	Lead-blood lead screen by graphite furnace atomic absorption	\$13.00
(257)	Listeria analysis-milk	\$27.00
(258)	Listeria analysis-food	\$100.00
(259)	Listeria culture-environmental	\$20.00
(260)	Loss on ignition	\$5.00
(261)	Manganese	\$16.00
(262)	Mercury in foods	\$79.00
(263)	Mercury in water	\$20.00
(264)	Metal (1 metal) ICAP	\$16.00
(265)	Metals (13 metals) ICAP	\$53.00
(266)	Metals (4 metals) ICAP	\$24.00
(267)	Metals (ICAP) plus mercury	\$180.00

(268)	Metals in food-ICAP	\$40.00
(269)	Microbiology culture for environmental organisms (listeria, canpylobacter, yersenia, salmonella, staphylococcus, and E. coli)	\$175.00
(270)	Milk containers-paper and plastic	\$17.00
(271)	Net weight and contents	\$ 7.00
(272)	Nickel	\$16.00
(273)	Nitrate	\$13.00
(274)	Nitrates and nitrites	\$13.00
(275)	Nitrites	\$13.00
(276)	Nonfat solids	\$5.00
(277)	Nuisance organisms	\$20.00
(278)	Oil and grease	\$158.00
(279)	Organoleptic exam	\$3.00
(280)	Organoleptic exam in foods	\$13.00
(281)	Oyster meat analysis for vibrio and salmonella	\$40.00
(282)	Oyster waters-analysis for salmonella, shigella, vibrio, staph	\$33.00
(283)	Oyster waters; metals	\$100.00
(284)	Oyster waters; organics	\$40.00
(285)	Oyster waters; pesticides	\$233.00
(286)	Pesticide (Endrin, lindane, methoxychem, toxophene)	\$100.00
(287)	Pesticide battery 12 assays	\$201.00
(288)	Pesticide residues-food	\$273.00
(289)	Pesticide residues-grains	\$273.00
(290)	Pesticide residues-vegetables	\$233.00
(291)	Pesticide/PCBs in soil	\$246.00
(292)	Pesticides/herbicides and PCB	\$100.00
(293)	Pesticides/metals-ICP	\$313.00
(294)	Pesticides/PCBs	\$233.00
(295)	Pesticides/PCBs (Food)	\$233.00
(296)	Pesticides/PCBs (HECD)	\$273.00
(297)	Pesticides/PCBs (NPD)	\$273.00
(298)	Pesticides/PCBs (serum)	\$64.00
(299)	Pesticides/PCBS GC/MS	\$475.00
(300)	Pesticides/PCBs in seafood	\$233.00
(301)	Pesticides/PCBs in water (multi-scan)	\$233.00
(302)	Pesticides/water (multi-scan)	\$231.00
(303)	pH	\$5.00
(304)	Phenols	\$319.00
(305)	Phosphatase by fluorophos	\$7.00
(306)	Phosphatase by sharer	\$11.00
(307)	Phosphatase by sharer-reativation	\$46.00
(308)	Phosphatase by sharer-interfering substances	\$11.00
(309)	Phosphatase by sharer-microbial	\$34.00
(310)	Phosphates	\$40.00
(311)	Polyaromatic hydrocarbons (PAH)	\$79.00
(312)	Potassium	\$16.00

(313) Priority chemicals	\$166.00
(314) Radionuclides; gamma	\$53.00
(315) Radium 226 and 228	\$725.00
(316) Radon 222	\$79.00
(317) Red tide (sample prep for mouse assay)	\$67.00
(318) Red tide (tissue culture assay)	\$133.00
(319) Reducing sugars	\$133.00
(320) Residual chlorine (chloramines)	\$20.00
(321) Residue/insoluble materials (pipe scales)	\$237.00
(322) Salinity	\$7.00
(323) Salmonella analysis-food	\$27.00
(324) Salmonella and vibrio analysis	\$126.00
(325) Salmonella culture	\$20.00
(326) Salmonella culture-chocolate	\$47.00
(327) Secondary chemicals	\$146.00
(328) Sediment analysis	\$240.00
(329) Selenium	\$33.00
(330) Shellfish-microbial screen (staph aureus, salmonella, shigella, vibrio, listeria)	\$166.00
(331) Silicates	\$40.00
(332) Silver	\$16.00
(333) Silvex 2,4-D and 2,4 TP	\$237.00
(334) Sodium	\$16.00
(335) Sodium and potassium	\$11.00
(336) Staphylococcus analysis-Environmental	\$20.00
(337) Staphylococcus aureus ID-Environmental	\$13.00
(338) Strontium 89 and 90	\$396.00
(339) Sulfates	\$8.00
(340) Sulfides	\$47.00
(341) Sulfite analysis-qualitative	\$3.00
(342) Sulfite analysis-quantitative	\$48.00
(343) Surfactants (MBAS)	\$158.00
(344) Synthetic organic chemicals (13 classes)	\$1,131.00
(345) Syrup-polarization	\$106.00
(346) Thallium	\$33.00
(347) Total chlorine residual	\$11.00
(348) Total dissolved solids	\$11.00
(349) Total hardness	\$8.00
(350) Total solids	\$11.00
(351) Total solids (lactometer)	\$7.00
(352) Total solids-drying	\$17.00
(353) Total suspended solids	\$27.00
(354) Trihalomethanes (THM)-(liquid/liquid)	\$33.00
(355) Trihalomethanes (THM)-(purge and trap)	\$79.00
(356) Tritium (H3)	\$79.00
(357) Turbidity	\$4.00
(358) Unregulated volatile organics	\$173.00

(359) Uranium	\$198.00
(360) Urines for methylparathion	\$8.00
(361) Vibrio cholerae identification and typing	\$150.00
(362) Vibrio vulnificus identification	\$118.00
(363) Vitamin A	\$158.00
(364) Vitamins A and D	\$185.00
(365) Vitamin D	\$158.00
(366) Volatile organic chemicals (VOCs) (liquid/liquid)	\$33.00
(367) Volatile organic chemicals (VOCs) (purge and trap)	\$172.00
(368) Yersinia culture-environmental	\$30.00
(369) Zinc	\$16.00
(370) Zinc in foods	\$3.00
(371) Any environmental chemistry and toxicology procedure not expressly stated will be charged based on the cost per unit of time (work time unit or WTU) as calculated by the fiscal department of the office of public health	\$1.75
(372) Any environmental microbiology procedure not expressly stated will be charged based on the cost per unit of time (work time unit or WTU) as calculated by the fiscal department of the office of public health	\$1.75
(373) Any research procedure not expressly stated will be charged based on the cost per unit of time (work time unit or WTU) as calculated by the fiscal department of the office of public health	\$1.75

#### LA R.S. 15:739. Inmate blood and saliva testing

- A. (1) Any incarcerated prisoner, whether before trial, during trial, pending appeal, or after final conviction, who is housed in any jail, prison, correctional facility, juvenile institution, temporary holding center, or detention facility within the state and who bites another person; spits or throws feces, urine, blood, saliva, or any other form of human waste or bodily fluid directly on another person; or causes, through contact, bleeding or exposure of flesh of another person in such a manner that the contact may cause the other person to contract an infectious disease, shall submit to a test designed to determine whether the incarcerated prisoner is infected with a sexually transmitted disease, or acquired immune deficiency syndrome (AIDS), the human immunodeficiency virus (HIV), HIV-1 antibodies, or any other probable causative agent of AIDS, viral hepatitis, or other infectious disease. Each incarcerated prisoner who is involved in an incident shall be deemed to be an offender and shall be subject to testing.
- (2) The procedure or test shall be performed by a qualified physician or other qualified person who shall report any positive result to the chief administrator of the jail or correctional facility, if the offender is incarcerated, and shall also notify the offender, regardless of the results. If the offender is incarcerated, the test may be administered at the place of incarceration or the offender may be transferred to an appropriate testing facility and returned to incarceration following the testing procedure.
- B. (1) If the offender tested under the provisions of Subsection A tests positive for a sexually transmitted disease, or AIDS, HIV, HIV-1 antibodies, or any other probable causative agent of AIDS, viral hepatitis, or other infectious disease, upon request, he shall be provided with the following services:
- (a) Counseling regarding HIV, viral hepatitis, or other infectious disease.

- (b) Referral to appropriate health care and support services.
  - (2) These services shall be provided in accordance with applicable state law and the regulations governing the specific programs under which the services are to be provided.
  - (3) The costs associated with this testing shall be paid by the offender.
- C. Any person who is involved in or witnesses an incident provided for in Subsection A of this Section may notify by affidavit the chief administrator of the jail or correctional facility that an incident provided for in Subsection A of this Section has occurred and the administrator shall order the testing, as provided in this Section, of each incarcerated prisoner who was involved in the incident.

### **LA C.Cr.P. Art. 221. Blood and saliva testing**

- A. (1) Following arrest if an offender is charged by bill of information or indicted by a grand jury for intentionally exposing a police officer to AIDS virus as defined in R.S. 14:43.5, or battery upon a police officer as defined in R.S. 14:34.2, the police officer may be tested to determine whether the police officer is infected with a sexually transmitted disease, or is infected with acquired immune deficiency syndrome (AIDS), the human immunodeficiency virus (HIV), HIV-1 antibodies, or any other probable causative agent of AIDS, or other infectious disease resulting from this exposure, or viral hepatitis.
- (2) For purposes of this Article, "police officer" means a commissioned police officer, sheriff, deputy sheriff, marshal, deputy marshal, correctional officer, constable, wildlife enforcement agent, and probation and parole officer.
- B. (1) If testing is requested by the police officer, as provided in Paragraph A of this Article, the testing shall be performed at a state hospital or other facility as determined by the Department of Health and Hospitals or as provided by law.
- (2) If the police officer tested under the provisions of this Paragraph tests positive for AIDS, HIV, HIV-1 antibodies, or any other probable causative agent of AIDS, viral hepatitis, or other infectious disease, the police officer, upon request, shall be provided with the following services:
- (a) Counseling regarding HIV, viral hepatitis, or other infectious disease.
  - (b) Referral to appropriate health care and support services. These services shall be provided in accordance with applicable state law and the regulations governing the specific programs under which the services are to be provided.
- (3) The cost associated with this testing and services shall be paid by the employing law enforcement agency of the police officer. The agency may seek reimbursement for these expenses from the offender.
- C. (1) If the police officer tested under the provisions of Paragraph B tests positive for AIDS, HIV, HIV-1 antibodies, or any other probable causative agent of AIDS, viral hepatitis, or other infectious disease, then the offender who may have exposed the officer shall submit to a test designed to determine whether the offender is infected with a sexually transmitted disease, or is infected with acquired immune deficiency syndrome (AIDS), the human immunodeficiency virus (HIV), HIV-1 antibodies, or any other probable causative agent of AIDS, viral hepatitis, or other infectious disease.

- (2) The procedure or test shall be performed by a qualified physician or other qualified person who shall report any positive result to the chief administrator of the jail or correctional facility, if the offender is incarcerated, and shall also notify the offender, regardless of the results. If the offender is incarcerated, the test may be administered at the place of incarceration or the offender may be transferred to an appropriate testing facility and returned to incarceration following the testing procedure.
- (3) If the offender tested under the provisions of this Paragraph tests positive for AIDS, HIV, HIV-1 antibodies, or any other probable causative agent of AIDS, viral hepatitis, or other infectious disease, upon request, he shall be provided with the following services:
  - (a) Counseling regarding HIV, viral hepatitis, or other infectious disease.
  - (b) Referral to appropriate health care and support services. These services shall be provided in accordance with applicable state law and the regulations governing the specific programs under which the services are to be provided.
- (4) The costs associated with this testing shall be paid by the offender.

#### **LA C.Cr.P. Art. 222. Blood and saliva testing; expedited, nonincriminating...**

- A. Any person who commits any act which exposes a law enforcement officer to a serious infectious disease by any means resulting in contact with the officer during the course and scope of an arrest for any offense shall be required to submit within seventy-two hours of the exposure to a test designed to determine whether he is infected with a sexually transmitted disease, acquired immune deficiency syndrome (AIDS), the human immunodeficiency virus (HIV), HIV-1 antibodies, any other probable causative agent of AIDS, viral hepatitis, or any other serious infectious disease.
- B. Any law enforcement officer who believes he has been the victim of an act which has exposed him to a serious infectious disease as provided in Paragraph A of this Article shall notify by affidavit, subject to penalty for false swearing, the criminal district court that the exposure has occurred. The court may order the testing, as provided in this Article.
- C. The court shall include in its order the designation of an appropriate facility for the procedure and shall require that the result be reported to the court. The court shall provide the results to the law enforcement officer and the alleged offender and shall provide them to health authorities in accordance with law.
- D. The state shall not use the fact that the medical procedure or test was performed on the alleged offender under this Article, or the results thereof, in any criminal proceeding arising out of the alleged offense.
- E. For purposes of this Article:
  - (1) "Law enforcement officer" means a commissioned police officer, sheriff, deputy sheriff, marshal, deputy marshal, correctional officer, constable, wildlife enforcement agent, probation and parole officer, or any officer of the court.
  - (2) "Act" is spitting, biting, or scratching, or the throwing of blood or other bodily substances by any means.
- F. The costs associated with testing as authorized by this Article shall be paid by the offender.

- G. If the person tested under the provisions of this Article tests positive for a sexually transmitted disease, AIDS, HIV, HIV-1 antibodies, any other probable causative agent of AIDS, viral hepatitis, or any other serious infectious disease, the court shall inform that person of available counseling, health care, and support services.

#### **LA C.Cr.P. Art. 499. AIDS testing of the accused**

- A. A person against whom charges have been filed for a sex offense as defined in R.S. 15:541 either by indictment or information shall, at the direction of the court, undergo a medical procedure or test designed to determine or aid in determining whether the person has a sexually transmitted disease, or is infected with the acquired immune deficiency syndrome (AIDS) virus, the human immuno deficiency virus (HIV-1) infection, any antibodies to such viruses, or with any other probable causative agent of AIDS.v
- B. The court shall include in its order the designation of an appropriate facility for the procedure, and shall require that the result be reported to the court. The court may in its discretion provide the results to the victim of the offense, and shall provide them to health authorities in accordance with law.
- C. The state shall not use the fact that the medical procedure or test was performed on the alleged offender under this Article, or the results thereof, in any criminal proceeding arising out of the alleged offense.

## MAINE

### ME ST T. 22 § 1233. Blood specimens accompanied by information blank; report

Blood specimens sent to a laboratory in compliance with section 1231 shall be accompanied by an information blank which shall contain the initials of the person whose blood is submitted or a number or other suitable means of identification, and the word “Prenatal” to indicate the purpose of the examination.

If the person in question is found to be infected with syphilis, the physician in charge shall make a report to the Bureau of Health on a regular blank, supplied by the bureau for the reporting of venereal diseases, adding thereto the word “Prenatal” in addition to such other information as may be indicated on said blanks.

Such reports shall be kept in a special file at the bureau and shall not be considered a public record. Such reports may be produced in any court procedure where they may be material and relevant on an order of the justice presiding.

### ME ST T. 22 § 1241. Definitions

As used in this article, unless the context otherwise indicates, the following terms have the following meanings.

1. Department. “Department” means the Department of Health and Human Services, Maine Center for Disease Control and Prevention.
2. Expedited partner therapy. “Expedited partner therapy” means prescribing, dispensing, furnishing or otherwise providing prescription antibiotic drugs to the sexual partner or partners of a person clinically diagnosed as infected with a sexually transmitted disease without physical examination of the partner or partners.
3. Health care professional. “Health care professional” means an allopathic physician licensed pursuant to Title 32, chapter 48, 1 an osteopathic physician licensed pursuant to Title 32, chapter 36, 2 a physician assistant who has been delegated the provision of sexually transmitted disease therapy or expedited partner therapy by that physician assistant's supervising physician, an advanced practice registered nurse who has a written collaborative agreement with a collaborating physician that authorizes the provision of sexually transmitted disease therapy or expedited partner therapy or an advanced practice registered nurse who possesses appropriate clinical privileges in accordance with Title 32, chapter 31 3 .
4. Sexually transmitted disease. “Sexually transmitted disease” means a bacterial, viral, fungal or parasitic disease determined by rule of the department to be sexually transmitted, to be a threat to the public health and welfare and to be a disease for which a legitimate public interest will be served by providing for its regulation and treatment.

### ME ST T. 22 § 1242. Expedited partner therapy

Notwithstanding any other provision of law, a health care professional who makes a clinical diagnosis of a sexually transmitted disease may provide expedited partner therapy for the treatment of the sexually transmitted disease if in the judgment of the health care professional the sexual partner is unlikely or unable to present for comprehensive health care, including evaluation, testing and treatment for sexually transmitted

diseases. Expedited partner therapy is limited to a sexual partner who may have been exposed to a sexually transmitted disease within the previous 60 days and who is able to be contacted by the patient.

1. Counseling. A health care professional who provides expedited partner therapy shall provide counseling for the patient, including advice that all women and symptomatic persons, and in particular women with symptoms suggestive of pelvic inflammatory disease, are encouraged to seek medical attention. The health care professional shall also provide written materials provided by the department to be given by the patient to the sexual partner that include at a minimum the following:
  - A. A warning that a woman who is pregnant or might be pregnant should not take certain antibiotics and should immediately contact a health care professional for an examination;
  - B. Information about the antibiotic and dosage provided or prescribed; clear and explicit allergy and side effect warnings, including a warning that a sexual partner who has a history of allergy to the antibiotic or the pharmaceutical class of antibiotic should not take the antibiotic and should be immediately examined by a health care professional;
  - C. Information about the treatment and prevention of sexually transmitted diseases;
  - D. The requirement of abstinence until a period of time after treatment to prevent infecting others;
  - E. Notification of the importance of the sexual partner's receiving examination and testing for the human immunodeficiency virus and other sexually transmitted diseases and information regarding available resources;
  - F. Notification of the risk to the sexual partner, others and the public health if the sexually transmitted disease is not completely and successfully treated;
  - G. The responsibility of the sexual partner to inform that person's sexual partners of the risk of sexually transmitted disease and the importance of prompt examination and treatment;
  - H. Advice to all women and symptomatic persons, and in particular women with symptoms suggestive of pelvic inflammatory disease, to seek medical attention; and
  - I. Information other than the information under paragraphs A to H as determined necessary by the department.
2. Department to develop and disseminate materials. Taking into account the recommendations of the federal Department of Health and Human Services, Centers for Disease Control and Prevention and other nationally recognized medical authorities, the department shall provide information and technical assistance as appropriate to health care professionals who provide expedited partner therapy. The department shall develop and disseminate in electronic and other formats the following written materials:
  - A. Informational materials for sexual partners, as described in subsection 1;
  - B. Informational materials for persons who are repeatedly diagnosed with sexually transmitted diseases; and
  - C. Guidance for health care professionals on the safe and effective provision of expedited partner therapy. The department may offer educational programs about expedited partner therapy for health care professionals and pharmacists licensed under the Maine Pharmacy Act.
3. Immunity for health care professional. A health care professional who provides expedited partner therapy in good faith without fee or compensation under this section and provides counseling and written materials as required in subsection 1 is not subject to civil or professional liability in connection with the provision of the therapy, counseling and materials, except in the case of willful and wanton misconduct. A health care professional is not subject to civil or professional liability for choosing not to provide expedited partner therapy.

4. Immunity for pharmacist or pharmacy. A pharmacist or pharmacy is not subject to civil or professional liability for choosing not to fill a prescription that would cause that pharmacist or pharmacy to violate any provision of the Maine Pharmacy Act 1 .
  
5. Rules. The department shall adopt rules, which are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A, 2 to implement this section. The department shall consider designating certain diseases as sexually transmitted diseases, including, but not limited to, chancroid, gonorrhea, granuloma inguinale, lymphogranuloma venereum, genital herpes simplex, chlamydia, nongonococcal urethritis, pelvic inflammatory disease, acute salpingitis, syphilis, Acquired Immune Deficiency Syndrome and human immunodeficiency virus, and shall consider the recommendations and classifications of the federal Department of Health and Human Services, Centers for Disease Control and Prevention and other nationally recognized medical authorities.

## MARYLAND

### MD CRIM LAW § 10-101. Definitions

In general

(a) In this part the following words have the meanings indicated.

Distribute

(b) "Distribute" means to:

- (1) give, sell, deliver, dispense, issue, or offer to give, sell, deliver, dispense, or issue; or
- (2) cause or hire a person to give, sell, deliver, dispense, issue or offer to give, sell, deliver, dispense, or issue.

Tobacco paraphernalia

(c) (1) "Tobacco paraphernalia" means any object used, intended for use, or designed for use in inhaling or otherwise introducing tobacco products into the human body.

(2) "Tobacco paraphernalia" includes:

- i. a cigarette rolling paper;
- ii. a metal, wooden, acrylic, glass, stone, plastic, or ceramic pipe with or without screen, permanent screen, or punctured metal bowl;
- iii. a water pipe;
- iv. a carburetion tube or device;
- v. a smoking or carburetion mask;
- vi. an object known as a roach clip used to hold burning material, such as a cigarette that has become too small or too short to be held in the hand;
- vii. a chamber pipe;
- viii. a carburetor pipe;
- ix. an electric pipe;
- x. an air-driven pipe;
- xi. a chillum;
- xii. a bong; and
- xiii. an ice pipe or chiller.

Tobacco product

(d) (1) "Tobacco product" means a substance containing tobacco.

(2) "Tobacco product" includes cigarettes, cigars, smoking tobacco, snuff, smokeless tobacco, and candy-like products that contain tobacco.

Venereal disease

(e) "Venereal disease" includes gonorrhea, syphilis, chancroid, and any diseased condition of the human genitalia caused by, related to, or resulting from a venereal disease.

### MD CRIM LAW § 10-102. Venereal disease--Advertising cure

Scope of section

(a) This section does not apply to:

- (1) a government unit;

- (2) a health or medical agency approved by the Secretary of Health and Mental Hygiene; (3) a medical, pharmaceutical, or other professional publication not publicly distributed; or (4) a news item or article published in a newspaper, magazine, or book.

Prohibited

(b) A person may not advertise, allow to be advertised, or call to public attention:

- (1) a drug, medicine, preparation, or substance for the treatment, alleviation, or cure of venereal disease; or
- (2) a person from whom or a place where a drug, medicine, preparation, or substance for the treatment, alleviation, or cure of venereal disease may be obtained.

Penalty

(c) A person who violates this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$500 for each violation.

### **MD CRIM LAW § 10-103. Venereal disease--Sale of remedy**

Scope of section

(a) This section does not apply to:

- (1) a physician licensed to practice medicine;
- (2) a government unit; or
- (3) the otherwise lawful conduct of business between commercial, medical, pharmaceutical, scientific, or government units.

Prohibited

(b) Except in accordance with a prescription written by a physician licensed to practice medicine, a person may not sell, dispense, or give to another a drug, medicine, preparation, substance, or a preparation containing a sulfonamide drug to alleviate, treat, or cure venereal disease.

Requirements for prescription

(c) (1) A prescription under subsection (b) of this section shall include:

- i. the physician's signature and address; and
- ii. (ii) the date the prescription was written.

(2) The person filling the prescription required under subsection (b) of this section:

- i. shall write on the prescription the date it was filled;
- ii. (ii) shall keep the prescription on file for at least 2 years after it was filled;
- iii. shall allow the prescription to be inspected by State and local health authorities; and
- iv. may not refill the prescription except on the order of the physician who wrote the prescription.

Penalty

(d) A person who violates this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding:

\$50 for the first violation; and  
(1) \$250 for each subsequent violation.

## **MD INSURANCE § 15-829. Chlamydia and human papilloma virus screening tests**

(a) (1) In this section the following words have the meanings indicated.

(2) “Chlamydia screening test” means any laboratory test that:

- (i) specifically detects for infection by one or more agents of chlamydia trachomatis; and
- (ii) (ii) is approved for this purpose by the federal Food and Drug Administration.

(3) “Human papillomavirus screening test” means any laboratory test that:

- (i) specifically detects for infection by one or more agents of the human papillomavirus; and
- (ii) is approved for this purpose by the federal Food and Drug Administration.

(4) “Multiple risk factors” means having a prior history of a sexually transmitted disease, new or multiple sex partners, inconsistent use of barrier contraceptives, or cervical ectopy.

(b) This section applies to:

- (1) insurers and nonprofit health service plans that provide hospital, medical, or surgical benefits to individuals or groups on an expense-incurred basis under health insurance policies or contracts that are issued or delivered in the State; and
- (2) health maintenance organizations that provide hospital, medical, or surgical benefits to individuals or groups under contracts that are issued or delivered in the State.

(c) An entity subject to this section shall:

(1) provide coverage for an annual routine chlamydia screening test for:

i. women who are:

- 1. under the age of 20 years if they are sexually active; and
- 2. at least 20 years old if they have multiple risk factors; and

ii. men who have multiple risk factors; and

(2) provide coverage for a human papillomavirus screening at the testing intervals outlined in the recommendations for cervical cytology screening developed by the American College of Obstetricians and Gynecologists.

(d) (1) Subject to paragraph (2) of this subsection, the coverage required under this section may be subject to a copayment or coinsurance requirement or deductible that an entity subject to this section imposes for similar coverages under the same policy or contract.

(2) The copayment or coinsurance requirement or deductible imposed under paragraph (1) of this subsection may not be greater than the copayment or coinsurance requirement or deductible imposed by the entity for similar coverages.

(e) Nothing in this section may be construed to prohibit an entity subject to this section from providing coverages that are greater than or more favorable to an insured or enrollee than the coverage required under this section.

## **MD HEALTH GEN § 18-214.1. Expedited Partner Therapy Pilot Program; Baltimore City**

### Definitions

(a) (1) In this section the following words have the meanings indicated.

(2) "Commissioner" means the Commissioner of Health of the Baltimore City Health Department.

(3) "Program" means the Expedited Partner Therapy Pilot Program.

### In general

(b) There is an Expedited Partner Therapy Pilot Program in the Baltimore City Health Department.

### Purpose

(c) The purpose of the Program is to provide antibiotic therapy to the partner of a patient diagnosed with a sexually transmitted infection identified in subsection (d) of this section in order to contain the infection and stop the further spread of it.

### Antibiotic therapy

(d) Notwithstanding any other provision of law, in a public health clinic established by the Commissioner in Baltimore City, the following health care providers may dispense or otherwise provide antibiotic therapy to any sexual partner of a patient diagnosed with chlamydia or gonorrhea without making a personal physical assessment of the patient's partner:

(1) A physician licensed under Title 14 of the Health Occupations Article;

(2) A certified nurse practitioner in accordance with § 8-508 of the Health Occupations Article; and

(3) An authorized physician assistant in accordance with § 15-302.2 of the Health Occupations Article.

### Regulations

(e) The Secretary shall adopt regulations to implement the requirements of this section.

### Reporting requirements

(f) On or before December 31, 2007, and each year thereafter, the Baltimore City Health Department shall report to the Governor and, subject to § 2-1246 of the State Government Article, the General Assembly, on the operation and performance of the Expedited Partner Therapy Pilot Program.

## **MASSACHUSETTS**

### **MA ST 111 § 117. Establishment and maintenance of clinics for treatment of...**

For the purpose of providing treatment for persons suffering from venereal diseases, as defined under section six, and who are unable to pay for private medical care, the department shall, or with the co-operation of local boards of health, hospitals, dispensaries or other agencies may, establish and maintain clinics in such parts of the commonwealth as it may deem most advantageous to the public health, and may otherwise provide treatment for such diseases subject to such rules and regulations as the department may from time to time establish. Cities and towns, separately or jointly, through their boards of health or municipal hospitals, may establish and maintain such clinics. For the purposes of this section, providing treatment shall include providing transportation or the reasonable cost of such transportation to and from the place where treatment is given whenever the patient is not able to pay for such transportation.

For the purposes of this section, physical examination and treatment by a registered physician or surgeon upon the person of a minor who voluntarily appears therefore, shall not constitute an assault or an assault and battery upon said person.

### **MA ST 111 § 118. Discrimination against treatment of venereal diseases**

No discrimination shall be made against the treatment of venereal diseases, as defined under section six, in any general hospital supported by taxation in any city or town where special hospitals, other than hospitals connected with penal institutions, are not provided for the treatment of such diseases at public expense; but any such hospital may establish a separate ward for their treatment.

### **MA ST 111 § 119. Records pertaining to venereal diseases**

Hospital, dispensary, laboratory and morbidity reports and records pertaining to venereal diseases, as defined under section six, shall not be public records, and the contents thereof shall not be divulged by any person having charge of or access to the same, except upon proper judicial order or to a person whose official duties, in the opinion of the commissioner, entitle him to receive information contained therein. Violations of this section shall for the first offence be punished by a fine of not more than fifty dollars, and for a subsequent offence by a fine of not more than one hundred dollars.

### **MA ST 112 § 12. Disclosure of information relative to venereal disease by...**

Any registered physician or surgeon who knows or has reason to believe that any person is infected with a venereal disease as defined under section six of chapter one hundred and eleven may disclose such information to any person from whom the infected person has received a promise of marriage or to the parent or guardian of such person if a minor. Such information given in good faith by a registered physician or surgeon shall not constitute a slander or libel.

### **MA ST 111 § 121. Treatment of venereal diseases or pulmonary tuberculosis...**

An inmate of a public charitable institution or a prisoner in a penal institution who is afflicted with a venereal disease, as defined under section six or pulmonary tuberculosis shall be forthwith placed under medical treatment, and if, in the opinion of the attending physician, it is necessary, he shall be isolated until danger of contagion is passed or the physician determines his isolation unnecessary. If at the expiration of a prisoner's

sentence he is afflicted with a venereal disease, as defined under section six or pulmonary tuberculosis in its contagious or infectious stages, or if, in the opinion of the attending physician of the institution or of such physician as the authorities thereof may consult, his release would be dangerous to public health, he shall be placed under medical treatment in the institution where he has been confined. Thereupon the authorities of such institution shall notify the department of public welfare of his condition and said department shall provide for his hospitalization and medical care at an institution until, in the opinion of the attending physician of the institution wherein he is being treated, the symptoms have disappeared and his release will not endanger the public health. Notice of a prisoner's release hereunder to the department of public welfare shall be made to the department of public health. The expense of his support, not exceeding three dollars and fifty cents a week, shall be paid by the town where he resides, after notice of the expiration of his sentence and of his condition to such town, or, if he is a state charge, by the commonwealth after like notice to the department of public welfare.

### **MA ST 111 § 121B. Prescription and distribution of drugs to treat...**

Notwithstanding any general or special law to the contrary, the department, in consultation with the board of registration in medicine, shall promulgate regulations authorizing a physician, physician assistant, nurse practitioner or certified nurse midwife who is authorized under chapter 94C to prescribe and dispense prescription drugs and who diagnoses infections due to *Chlamydia trachomatis* in individual patients, to prescribe and dispense such prescription drugs to a patient's sexual partners for the presumptive treatment of *Chlamydia* infection without an examination of the patient's sexual partners.

Credits

### **MA ST 127 § 16. Physical examination of inmates; communicable diseases**

The superintendents of the correctional institutions of the commonwealth, and the keepers and superintendents of jails and houses of correction shall cause a thorough physical examination to be made by a competent physician of each inmate in their respective institutions committed for a term of thirty days' imprisonment or more. In conducting the examination special attention shall be given to determining the presence of communicable diseases, particularly venereal diseases as defined under section six of chapter one hundred and eleven and pulmonary tuberculosis.

### **MA ST 111 § 111. Notice to board of health that persons infected with...**

If a physician knows or has cause to believe that a person whom he visits is infected with a disease dangerous to the public health, or if either eye of an infant whom or whose mother a physician, or a hospital medical officer registered under section nine of chapter one hundred and twelve, visits, becomes inflamed, swollen and red, or shows an unnatural discharge within two weeks after birth, he shall immediately give written notice thereof, signed by him, to the board of health of the town where the patient is being attended by him. If the board of health which receives such written notice is the board of health of a town other than that wherein the patient dwells, it shall, immediately upon receipt of such notice, send a copy thereof to the board of health of the town wherein the patient dwells; and, in addition thereto, the board of health which receives such written notice, whether or not it is the board of health of the town wherein the patient dwells, shall send a copy thereof to the board of health of the town in which the patient is known to have contracted such disease and to the board of health of each town in which he is known to have exposed any person to such disease. If a physician or such a hospital medical officer refuses or neglects to give the notice required by this section he shall be punished by a fine of not less than fifty nor more than two hundred dollars.

The foregoing provisions of this section shall not apply to tuberculosis, nor shall the foregoing provisions of this section and the provisions of section one hundred and nine apply to venereal diseases as defined under section six, except in the case of eye infections in infants under two weeks of age. Any person having tuberculosis or a venereal disease shall be reported to local boards of health either directly or through the department in accordance with such special rules and regulations as the department may make, having due regard for the best interests of the public.

**MA ST 111 § 6. Power to define diseases deemed dangerous to public health;...**

The department shall have the power to define, and shall from time to time define, what diseases shall be deemed to be dangerous to the public health, and shall make such rules and regulations consistent with law for the control and prevention of such diseases as it deems advisable for the protection of the public health. The department shall also have the power to define, and shall from time to time so define, what diseases shall be included within the term venereal diseases in the provisions of the laws relative to public health.

## MINNESOTA

### MN ST § 121A.23. Programs to prevent and reduce the risks of sexually...

Subdivision 1. Sexually transmitted infections and diseases program. The commissioner of education, in consultation with the commissioner of health, shall assist districts in developing and implementing a program to prevent and reduce the risk of sexually transmitted infections and diseases, including but not exclusive to human immune deficiency virus and human papilloma virus. Each district must have a program that includes at least:

- (1) planning materials, guidelines, and other technically accurate and updated information;
- (2) a comprehensive, technically accurate, and updated curriculum that includes helping students to abstain from sexual activity until marriage;
- (3) cooperation and coordination among districts and SCs;
- (4) a targeting of adolescents, especially those who may be at high risk of contracting sexually transmitted infections and diseases, for prevention efforts;
- (5) involvement of parents and other community members;
- (6) in-service training for appropriate district staff and school board members;
- (7) collaboration with state agencies and organizations having a sexually transmitted infection and disease prevention or sexually transmitted infection and disease risk reduction program;
- (8) collaboration with local community health services, agencies and organizations having a sexually transmitted infection and disease prevention or sexually transmitted infection and disease risk reduction program; and
- (9) participation by state and local student organizations.

The department may provide assistance at a neutral site to a nonpublic school participating in a district's program. District programs must not conflict with the health and wellness curriculum developed under Laws 1987, chapter 398, article 5, section 2, subdivision 7.

If a district fails to develop and implement a program to prevent and reduce the risk of sexually transmitted infection and disease, the department must assist the service cooperative in the region serving that district to develop or implement the program.

Subd. 2. Funding sources. Districts may accept funds for sexually transmitted infection and disease prevention programs developed and implemented under this section from public and private sources including public health funds and foundations, department professional development funds, federal block grants or other federal or state grants.

### MN ST § 144.4172. Definitions

Subdivision 1. Carrier. "Carrier" means a person who serves as a potential source of infection and who harbors or who the commissioner reasonably believes to be harboring a specific infectious agent whether or not there is present discernible clinical disease. In the absence of a medically accepted test, the commissioner may reasonably believe an individual to be a carrier only when a determination based upon specific facts justifies an inference that the individual harbors a specific infectious agent.

Subd. 2. Communicable disease. "Communicable disease" means a disease or condition that causes serious illness, serious disability, or death, the infectious agent of which may pass or be carried, directly or indirectly, from the body of one person to the body of another.

Subd. 3. Commissioner. "Commissioner" means the commissioner of health.

Subd. 4. Contact notification program. "Contact notification program" means an ongoing program established by the commissioner to encourage carriers of a communicable disease whose primary route of transmission is through an exchange of blood, semen, or vaginal secretions, such as *treponema pallidum*, *neisseria gonorrhoea*, *chlamydia trachomatis*, and human immunodeficiency virus, to identify others who may be at risk by virtue of contact with the carrier.

Subd. 5. Directly transmitted. "Directly transmitted" means predominately:

- (1) sexually transmitted;
- (2) bloodborne; or
- (3) transmitted through direct or intimate skin contact.

Subd. 6. Health directive. "Health directive" means a written statement, or, in urgent circumstances, an oral statement followed by a written statement within three days, from the commissioner, or board of health as defined in section 145A.02, subdivision 2, with delegated authority from the commissioner, issued to a carrier who constitutes a health threat to others. A health directive must be individual, specific, and cannot be issued to a class of persons. The directive may require a carrier to cooperate with health authorities in efforts to prevent or control transmission of communicable disease, including participation in education, counseling, or treatment programs, and undergoing medical tests necessary to verify the person's carrier status. The written directive shall be served in the same manner as a summons and complaint under the Minnesota Rules of Civil Procedure.

Subd. 7. Licensed health professional. "Licensed health professional" means a person licensed in Minnesota to practice those professions described in section 214.01, subdivision 2.

Subd. 8. Health threat to others. "Health threat to others" means that a carrier demonstrates an inability or unwillingness to act in such a manner as to not place others at risk of exposure to infection that causes serious illness, serious disability, or death. It includes one or more of the following:

- (1) With respect to an indirectly transmitted communicable disease:
  - (a) behavior by a carrier which has been demonstrated epidemiologically to transmit or which evidences a careless disregard for the transmission of the disease to others; or
  - (b) a substantial likelihood that a carrier will transmit a communicable disease to others as is evidenced by a carrier's past behavior, or by statements of a carrier that are credible indicators of a carrier's intention.
- (2) With respect to a directly transmitted communicable disease:
  - (a) repeated behavior by a carrier which has been demonstrated epidemiologically to transmit or which evidences a careless disregard for the transmission of the disease to others;
  - (b) a substantial likelihood that a carrier will repeatedly transmit a communicable disease to others as is evidenced by a carrier's past behavior, or by statements of a carrier that are credible indicators of a carrier's intention;

- (c) affirmative misrepresentation by a carrier of the carrier's status prior to engaging in any behavior which has been demonstrated epidemiologically to transmit the disease; or
- (d) the activities referenced in clause (1) if the person whom the carrier places at risk is: (i) a minor, (ii) of diminished capacity by reason of mood altering chemicals, including alcohol, (iii) has been diagnosed as having significantly subaverage intellectual functioning, (iv) has an organic disorder of the brain or a psychiatric disorder of thought, mood, perception, orientation, or memory which substantially impairs judgment, behavior, reasoning, or understanding; (v) adjudicated as an incompetent; or (vi) a vulnerable adult as defined in section 626.5572.

(3) Violation by a carrier of any part of a court order issued pursuant to this chapter.

Subd. 9. Indirectly transmitted. "Indirectly transmitted" means any transmission not defined by subdivision 5.

Subd. 10. Noncompliant behavior. "Noncompliant behavior" means a failure or refusal by a carrier to comply with a health directive.

Subd. 11. Respondent. "Respondent" means any person against whom an action is commenced under sections 144.4171 to 144.4186.

### **MN ST § 145.928. Eliminating health disparities**

Subdivision 1. Goal; establishment. It is the goal of the state, by 2010, to decrease by 50 percent the disparities in infant mortality rates and adult and child immunization rates for American Indians and populations of color, as compared with rates for whites. To do so and to achieve other measurable outcomes, the commissioner of health shall establish a program to close the gap in the health status of American Indians and populations of color as compared with whites in the following priority areas: infant mortality, breast and cervical cancer screening, HIV/AIDS and sexually transmitted infections, adult and child immunizations, cardiovascular disease, diabetes, and accidental injuries and violence.

Subd. 2. State-community partnerships; plan. The commissioner, in partnership with culturally based community organizations; the Indian Affairs Council under section 3.922; the Council on Affairs of Chicano/Latino People under section 3.9223; the Council on Black Minnesotans under section 3.9225; the Council on Asian-Pacific Minnesotans under section 3.9226; community health boards as defined in section 145A.02; and tribal governments, shall develop and implement a comprehensive, coordinated plan to reduce health disparities in the health disparity priority areas identified in subdivision 1.

Subd. 3. Measurable outcomes. The commissioner, in consultation with the community partners listed in subdivision 2, shall establish measurable outcomes to achieve the goal specified in subdivision 1 and to determine the effectiveness of the grants and other activities funded under this section in reducing health disparities in the priority areas identified in subdivision 1. The development of measurable outcomes must be completed before any funds are distributed under this section.

Subd. 4. Statewide assessment. The commissioner shall enhance current data tools to ensure a statewide assessment of the risk behaviors associated with the health disparity priority areas identified in subdivision 1. The statewide assessment must be used to establish a baseline to measure the effect of activities funded under this section. To the extent feasible, the commissioner shall conduct the assessment so that the results may be compared to national data.

Subd. 5. Technical assistance. The commissioner shall provide the necessary expertise to grant applicants to ensure that submitted proposals are likely to be successful in reducing the health disparities identified in subdivision 1. The commissioner shall provide grant recipients with guidance and training on best or most promising strategies to use to reduce the health disparities identified in subdivision 1. The commissioner shall also assist grant recipients in the development of materials and procedures to evaluate local community activities.

Subd. 6. Process.

- (a) The commissioner, in consultation with the community partners listed in subdivision 2, shall develop the criteria and procedures used to allocate grants under this section. In developing the criteria, the commissioner shall establish an administrative cost limit for grant recipients. At the time a grant is awarded, the commissioner must provide a grant recipient with information on the outcomes established according to subdivision 3.
- (b) A grant recipient must coordinate its activities to reduce health disparities with other entities receiving funds under this section that are in the grant recipient's service area.

Subd. 7. Community grant program; immunization rates and infant mortality rates.

- (a) The commissioner shall award grants to eligible applicants for local or regional projects and initiatives directed at reducing health disparities in one or both of the following priority areas:
  - (1) decreasing racial and ethnic disparities in infant mortality rates; or
  - (2) increasing adult and child immunization rates in nonwhite racial and ethnic populations.
- (b) The commissioner may award up to 20 percent of the funds available as planning grants. Planning grants must be used to address such areas as community assessment, coordination activities, and development of community supported strategies.
- (c) Eligible applicants may include, but are not limited to, faith-based organizations, social service organizations, community nonprofit organizations, community health boards, tribal governments, and community clinics. Applicants must submit proposals to the commissioner. A proposal must specify the strategies to be implemented to address one or both of the priority areas listed in paragraph (a) and must be targeted to achieve the outcomes established according to subdivision 3.
- (d) The commissioner shall give priority to applicants who demonstrate that their proposed project or initiative:
  - (1) is supported by the community the applicant will serve;
  - (2) is research-based or based on promising strategies;
  - (3) is designed to complement other related community activities;
  - (4) utilizes strategies that positively impact both priority areas; (5) reflects racially and ethnically appropriate approaches; and
  - (5) will be implemented through or with community-based organizations that reflect the race or ethnicity of the population to be reached.

Subd. 8. Community grant program; other health disparities.

- (a) The commissioner shall award grants to eligible applicants for local or regional projects and initiatives directed at reducing health disparities in one or more of the following priority areas:
  - (1) decreasing racial and ethnic disparities in morbidity and mortality rates from breast and cervical cancer;

- (2) decreasing racial and ethnic disparities in morbidity and mortality rates from HIV/AIDS and sexually transmitted infections; (3) decreasing racial and ethnic disparities in morbidity and mortality rates from cardiovascular disease;
  - (3) decreasing racial and ethnic disparities in morbidity and mortality rates from diabetes; or
  - (4) decreasing racial and ethnic disparities in morbidity and mortality rates from accidental injuries or violence.
- (b) The commissioner may award up to 20 percent of the funds available as planning grants. Planning grants must be used to address such areas as community assessment, determining community priority areas, coordination activities, and development of community supported strategies.
  - (c) Eligible applicants may include, but are not limited to, faith-based organizations, social service organizations, community nonprofit organizations, community health boards, and community clinics. Applicants shall submit proposals to the commissioner. A proposal must specify the strategies to be implemented to address one or more of the priority areas listed in paragraph (a) and must be targeted to achieve the outcomes established according to subdivision 3.
  - (d) The commissioner shall give priority to applicants who demonstrate that their proposed project or initiative:
    - (1) is supported by the community the applicant will serve;
    - (2) is research-based or based on promising strategies;
    - (3) is designed to complement other related community activities;
    - (4) utilizes strategies that positively impact more than one priority area; (5) reflects racially and ethnically appropriate approaches; and
    - (5) will be implemented through or with community-based organizations that reflect the race or ethnicity of the population to be reached.

Subd. 9. Health of foreign-born persons.

- (a) The commissioner shall distribute funds to community health boards for health screening and follow-up services for tuberculosis for foreign-born persons. Funds shall be distributed based on the following formula:
  - (1) \$1,500 per foreign-born person with pulmonary tuberculosis in the community health board's service area;
  - (2) \$500 per foreign-born person with extrapulmonary tuberculosis in the community health board's service area;
  - (3) \$500 per month of directly observed therapy provided by the community health board for each uninsured foreign-born person with pulmonary or extrapulmonary tuberculosis; and
  - (4) \$50 per foreign-born person in the community health board's service area.
- (b) Payments must be made at the end of each state fiscal year. The amount paid per tuberculosis case, per month of directly observed therapy, and per foreign-born person must be proportionately increased or decreased to fit the actual amount appropriated for that fiscal year.

Subd. 10. Tribal governments. The commissioner shall award grants to American Indian tribal governments for implementation of community interventions to reduce health disparities for the priority areas listed in subdivisions 7 and 8. A community intervention must be targeted to achieve the outcomes established according to subdivision 3. Tribal governments must submit proposals to the commissioner and must

demonstrate partnerships with local public health entities. The distribution formula shall be determined by the commissioner, in consultation with the tribal governments.

Subd. 11. Coordination. The commissioner shall coordinate the projects and initiatives funded under this section with other efforts at the local, state, or national level to avoid duplication and promote complementary efforts.

Subd. 12. Evaluation. Using the outcomes established according to subdivision 3, the commissioner shall conduct a biennial evaluation of the community grant programs, community health board activities, and tribal government activities funded under this section. Grant recipients, tribal governments, and community health boards shall cooperate with the commissioner in the evaluation and shall provide the commissioner with the information needed to conduct the evaluation.

Subd. 13. Report. The commissioner shall submit a biennial report to the legislature on the local community projects, tribal government, and community health board prevention activities funded under this section. These reports must include information on grant recipients, activities that were conducted using grant funds, evaluation data, and outcome measures, if available. These reports are due by January 15 of every other year, beginning in the year 2003.

Subd. 14. Supplantation of existing funds. Funds received under this section must be used to develop new programs or expand current programs that reduce health disparities. Funds must not be used to supplant current county or tribal expenditures.

## **MN ST § 147D.05. Professional conduct**

Subdivision 1. Practice standards.

(a) A licensed traditional midwife shall provide an initial and ongoing screening to ensure that each client receives safe and appropriate care. A licensed traditional midwife shall only accept and provide care to those women who are expected to have a normal pregnancy, labor, and delivery. As part of the initial screening to determine whether any contraindications are present, the licensed traditional midwife must take a detailed health history that includes the woman's social, medical, surgical, menstrual, gynecological, contraceptive, obstetrical, family, nutritional, and drug/chemical use histories. If a licensed traditional midwife determines at any time during the course of the pregnancy that a woman's condition may preclude attendance by a traditional midwife, the licensed traditional midwife must refer the client to a licensed health care provider. As part of the initial and ongoing screening, a licensed traditional midwife must recommend that the client receive the following services, if indicated, from an appropriate health care provider:

- (1) initial laboratory pregnancy screening, including blood group and type, antibody screen, Indirect Coombs, rubella titer, CBC with differential and syphilis serology;
- (2) gonorrhea and chlamydia cultures;
- (3) screening for sickle cell;
- (4) screening for hepatitis B and human immunodeficiency virus (HIV); (5) maternal serum alpha-fetoprotein test and ultrasound;
- (5) Rh antibody and glucose screening at 28 weeks gestation;
- (6) mandated newborn screening;
- (7) Rh screening of the infant for maternal RhoGAM treatment; and
- (8) screening for premature labor.

- (b) A client must make arrangements to have the results of any of the tests described in paragraph (a) sent to the licensed traditional midwife providing services to the client. The licensed traditional midwife must include these results in the client's record.

Subd. 2. Written plan. A licensed traditional midwife must prepare a written plan with each client to ensure continuity of care throughout pregnancy, labor, and delivery. The written plan must incorporate the conditions under which the medical consultation plan, including the transfer of care or transport of the client, may be implemented.

Subd. 3. Health regulations. A licensed traditional midwife must comply with all applicable state and municipal requirements regarding public health.

Subd. 4. Client records. A licensed traditional midwife must maintain a client record on each client, including:

- (1) a copy of the informed consent form described in section 147D.07;
- (2) evidence of an initial client screening described in this section;
- (3) a copy of the written plan described in subdivision 2;
- (4) a record of prenatal and postpartum care provided to the client at each visit; and
- (5) a detailed record of the labor and delivery process.

Subd. 5. Data. All records maintained on each client by a licensed traditional midwife are subject to sections 144.291 to 144.298.

## **MN ST § 611A.20. Notice of risk of sexually transmitted disease**

Subdivision 1. Notice required. A hospital shall give a written notice about sexually transmitted diseases to a person receiving medical services in the hospital who reports or evidences a sexual assault or other unwanted sexual contact or sexual penetration. When appropriate, the notice must be given to the parent or guardian of the victim.

Subd. 2. Contents of notice. The commissioners of public safety and corrections, in consultation with sexual assault victim advocates and health care professionals, shall develop the notice required by subdivision 1. The notice must inform the victim of:

- (1) the risk of contracting sexually transmitted diseases as a result of a sexual assault;
- (2) the symptoms of sexually transmitted diseases;
- (3) recommendations for periodic testing for the diseases, where appropriate;
- (4) locations where confidential testing is done and the extent of the confidentiality provided;
- (5) information necessary to make an informed decision whether to request a test of the offender under section 611A.19; and
- (6) other medically relevant information.

## **MISSISSIPPI**

### **MS ST § 41-23-27. Infectious sexually transmitted diseases**

The state board of health shall have full power to isolate, quarantine or otherwise confine, intern, and treat such person afflicted with such infectious sexually transmitted disease for such time and under such restrictions as may seem proper. Said board shall have full power to pass all such rules and regulations as to the isolation, quarantine, confinement, internment and treatment as may be needful.

Any person knowingly violating any rule or regulation promulgated by the state board of health, under the authority of this section, shall be deemed guilty of a misdemeanor and upon conviction shall be punished by fine or imprisonment or both.

### **MS ST § 41-23-29. Examinations, infectious sexually transmitted disease**

Any person suspected of being afflicted with any such infectious sexually transmitted disease shall be subject to physical examination and inspection by any representative of the state board of health. For failure or refusal to allow such inspection or examination, such person may be punished as for a misdemeanor.

### **MS ST § 41-23-30. Testing, treatment, sexually transmitted disease**

County health departments shall provide testing for and treatment of sexually transmitted disease. Such testing and/or treatment shall be kept in strict confidence. The county boards of supervisors are directed to make known to the public, through available media, the confidentiality of the testing for and treatment of sexually transmitted disease.

### **MS ST § 41-3-13. WISEWOMAN and WISEMAN Pilot Programs**

(1) The Legislature makes the following findings:

- (a) Chronic diseases are among the most prevalent, costly and preventable of all health problems.
- (b) Screening tests are currently available that can detect heart disease, breast cancer, cervical cancer, colorectal cancer, prostate cancer and other chronic diseases early, when they can be most effectively treated, managed or controlled.
- (c) The risk factors for many chronic diseases can be addressed and reduced through education about those risk factors and the importance of actions that can be taken for prevention of chronic diseases.
- (d) People should partner with their health care providers to have their risk factors assessed, monitored and managed in accordance with national guidelines, and should be educated about the signs and symptoms of heart attack and stroke and the importance of getting help quickly at the onset of those symptoms.
- (e) Mississippi should have programs that are specifically designed to reduce the incidences of chronic diseases among our population.

(2) The State Department of Health is authorized in its discretion to establish the WISEWOMAN pilot program and the WISEMAN pilot program, the purposes and goals of which are to reduce the incidences of certain chronic diseases among Mississippians through education, prevention and early screening and detection. The pilot program shall be conditioned upon the availability of funds obtained for such purpose from public or private sources. The focus of the WISEWOMAN pilot program shall be heart disease, stroke, breast cancer, cervical cancer and colorectal cancer in women, and the focus of the WISEMAN pilot

program shall be heart disease, stroke, prostate cancer, colorectal cancer and diabetes in men. At a minimum, the WISEWOMAN and WISEMAN pilot programs shall:

- (a) Provide for education about healthy behaviors and how to reduce the risk factors for those chronic diseases;
  - (b) Provide for screening and testing to detect those chronic diseases early when they can be effectively treated, managed or controlled; and
  - (c) Be directed toward those populations at greatest need and be based on a foundation of scientific evidence.
- (3) In implementing the WISEWOMAN and WISEMAN pilot programs, the department shall contract with public or private clinics or agencies that have demonstrated success in reducing incidences of those chronic diseases through education, prevention and early screening and detection.
- (4) The department shall seek and apply for grants from the Centers for Disease Control and Prevention and other public or private entities to obtain funding for the WISEWOMAN and WISEMAN pilot programs.

### **MS ST § 41-41-13. Treating minor for venereal disease**

Any physician, duly licensed to practice medicine in the State of Mississippi, or any nurse practitioner, who, in the exercise of due care, renders medical care to a minor for treatment of a venereal disease is under no obligation to obtain the consent of a parent or guardian, as applicable, or to inform such parent or guardian of such treatment.

### **MS ST § 41-79-53. Teen pregnancy prevention programs**

- (1) The Mississippi Department of Human Services shall develop programs to accomplish the purpose of one or more of the following strategies:
- (a) Promoting effective communication among families about preventing teen pregnancy, particularly communication among parents or guardians and their children;
  - (b) Educating community members about the consequences of unprotected, uninformed and underage sexual activity and teen pregnancy;
  - (c) Encouraging young people to postpone sexual activity and prepare for a healthy, successful adulthood, including teaching them skills to avoid making or receiving unwanted verbal, physical, and sexual advances;
  - (d) Providing medically accurate information about the health benefits and side effects of all contraceptives and barrier methods as a means to prevent pregnancy and reduce the risk of contracting sexually transmitted infections, including HIV/ AIDS; or
  - (e) Providing educational information, including medically accurate information about the health benefits and side effects of all contraceptives and barrier methods, for young people in those communities who are already sexually active or are at risk of becoming sexually active and inform young people in those communities about the responsibilities and consequences of being a parent, and how early pregnancy and parenthood can interfere with educational and other goals.
- (2) The State Department of Health shall develop programs with the following strategies:

- (a) To carry out activities, including counseling, to prevent unintended pregnancy and sexually transmitted infections, including HIV/AIDS, among teens;
  - (b) To provide necessary social and cultural support services regarding teen pregnancy;
  - (c) To provide health and educational services related to the prevention of unintended pregnancy and sexually transmitted infections, including HIV/AIDS, among teens;
  - (d) To promote better health and educational outcomes among pregnant teens; and
  - (e) To provide training for individuals who plan to work in school-based support programs regarding the prevention of unintended pregnancy and sexually transmitted infections, including HIV/AIDS, among teens.
- (3) It shall be the responsibility of school nurses employed by local school districts implementing the program developed by the State Department of Health under subsection (2) of this section to carry out the functions of those strategies to promote consistency in the administration of the program.

## MISSOURI

### MO ST 167.182. Informational brochure relating to human papillomavirus...

1. The department of health and senior services shall develop an informational brochure relating to the connection between human papillomavirus and cervical cancer, and that an immunization against the human papillomavirus infection is available. The department shall make the brochure available on its website and shall notify each public school district in this state of the availability of the brochure to be printed and included or referred to in any other printed material to be provided directly to parents as the school district deems appropriate. However, materials made available pursuant to this section may only be distributed to parents directly and not distributed to students as material to be given to parents. Such information in the brochure shall include:
  - (1) The risk factors for developing cervical cancer, the symptoms of the disease, how it may be diagnosed, and its possible consequences if untreated;
  - (2) The connection between human papillomavirus and cervical cancer, how human papillomavirus is transmitted, how transmission may be prevented, including abstinence as the best way to prevent sexually transmitted diseases, and the relative risk of contracting human papillomavirus for primary and secondary school students;
  - (3) The latest scientific information on the immunization against human papillomavirus infection and the immunization's effectiveness against causes of cervical cancer;
  - (4) That a pap smear is still critical for the detection of precancerous changes in the cervix to allow for treatment before cervical cancer develops; and
  - (5) A statement that any questions or concerns regarding immunizing the child against human papillomavirus could be answered by contacting the family's health care provider.
2. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2010, shall be invalid and void.

### MO ST 191.677. Prohibited acts, criminal penalties

1. It shall be unlawful for any individual knowingly infected with HIV to:
  - (1) Be or attempt to be a blood, blood products, organ, sperm or tissue donor except as deemed necessary for medical research;
  - (2) Act in a reckless manner by exposing another person to HIV without the knowledge and consent of that person to be exposed to HIV, in one of the following manners:
    - (a) Through contact with blood, semen or vaginal secretions in the course of oral, anal or vaginal sexual intercourse; or
    - (b) By the sharing of needles; or
    - (c) By biting another person or purposely acting in any other manner which causes the HIV-infected person's semen, vaginal secretions, or blood to come into contact with the mucous membranes or nonintact skin of another person.

Evidence that a person has acted recklessly in creating a risk of infecting another individual with HIV shall include, but is not limited to, the following:

- a. The HIV-infected person knew of such infection before engaging in sexual activity with another person, sharing needles with another person, biting another person, or purposely causing his or her semen, vaginal secretions, or blood to come into contact with the mucous membranes or nonintact skin of another person, and such other person is unaware of the HIV-infected person's condition or does not consent to contact with blood, semen or vaginal fluid in the course of such activities;
  - b. The HIV-infected person has subsequently been infected with and tested positive to primary and secondary syphilis, or gonorrhea, or chlamydia; or
  - c. Another person provides evidence of sexual contact with the HIV-infected person after a diagnosis of an HIV status.
2. Violation of the provisions of subdivision (1) or (2) of subsection 1 of this section is a class B felony unless the victim contracts HIV from the contact in which case it is a class A felony.
  3. The department of health and senior services or local law enforcement agency, victim or others may file a complaint with the prosecuting attorney or circuit attorney of a court of competent jurisdiction alleging that a person has violated a provision of subsection 1 of this section. The department of health and senior services shall assist the prosecutor or circuit attorney in preparing such case, and upon request, turn over to peace officers, police officers, the prosecuting attorney or circuit attorney, or the attorney general records concerning that person's HIV-infected status, testing information, counseling received, and the identity and available contact information for individuals with whom that person had sexual intercourse or deviate sexual intercourse and those individuals' test results.
  4. The use of condoms is not a defense to a violation of paragraph (a) of subdivision (2) of subsection 1 of this section.

#### **MO ST 566.135. Defendant may be tested for various sexually transmitted...**

1. Pursuant to a motion filed by the prosecuting attorney or circuit attorney with notice given to the defense attorney and for good cause shown, in any criminal case in which a defendant has been charged by the prosecuting attorney's office or circuit attorney's office with any offense under this chapter or pursuant to section 575.150, 567.020, 565.050, 565.060, 565.070, 565.072, 565.073, 565.074, 565.075, 565.081, 565.082, 565.083, 568.045, 568.050, or 568.060, or paragraph (a), (b), or (c), of subdivision (2) of subsection 1 of section 191.677, the court may order that the defendant be conveyed to a state-, city-, or county-operated HIV clinic for testing for HIV, hepatitis B, hepatitis C, syphilis, gonorrhea, and chlamydia. The results of the defendant's HIV, hepatitis B, hepatitis C, syphilis, gonorrhea, and chlamydia tests shall be released to the victim and his or her parent or legal guardian if the victim is a minor. The results of the defendant's HIV, hepatitis B, hepatitis C, syphilis, gonorrhea, and chlamydia tests shall also be released to the prosecuting attorney or circuit attorney and the defendant's attorney. The state's motion to obtain said testing, the court's order of the same, and the test results shall be sealed in the court file.
2. As used in this section, "HIV" means the human immunodeficiency virus that causes acquired immunodeficiency syndrome.

## **MONTANA**

### **MT ST 46-18-256. Sexually transmitted disease testing--test procedure**

- (1) Following entry of judgment, a person convicted of a sexual offense, as defined in 46-23-502, except an offense under 45-5-301 through 45-5-303, must, at the request of the victim of the sexual offense or the parent or guardian of the victim, if the victim is a minor, be administered standard testing according to currently accepted protocol, using guidelines established by the centers for disease control, U.S. department of health and human services, to detect in the person the presence of antibodies indicative of the presence of human immunodeficiency virus (HIV) or other sexually transmitted diseases, as defined in 50-18-101.
- (2) Arrangements for the test required by subsection (1) must be made by the county attorney of the county in which the person was convicted. The test must be conducted by a health care provider, as defined in 50-16-504.
- (3) The county attorney of the county in which the person was convicted shall release the information concerning the test results to:
  - (a) the convicted person; and
  - (b) the victim of the offense committed by the convicted person or to the parent or guardian of the victim if the victim is a minor.
- (4) At the request of the victim of a sexual offense or the parent or guardian of the victim if the victim is a minor, the victim must be provided counseling regarding HIV disease, HIV testing (in accordance with applicable law), and referral for appropriate health care and support services.
- (5) For purposes of this section, "convicted" includes an adjudication, under the provisions of 41-5-1502, finding a youth to be a delinquent youth or a youth in need of intervention.
- (6) The provisions of the AIDS Prevention Act, Title 50, chapter 16, part 10, do not apply to this section.

### **MT ST 50-18-101. Sexually transmitted diseases defined**

Human immunodeficiency virus (HIV), syphilis, gonorrhea, chancroid, chlamydia genital infections, lymphogranuloma venereum, and granuloma inguinale are sexually transmitted diseases. Sexually transmitted diseases are contagious, infectious, communicable, and dangerous to public health.

### **MT ST 50-18-102. Powers and duties of department**

The department of public health and human services shall undertake to prevent, control, and prescribe treatments for sexually transmitted diseases and may conduct education campaigns for this purpose.

### **MT ST 50-18-103. Cooperation with federal agencies--federal funds**

- (1) The department of public health and human services shall cooperate with federal agencies and may expend federal funds made available to the state for the prevention, control, and treatment of sexually transmitted diseases.

- (2) The department may accept federal funds available for the prevention, control, and treatment of sexually transmitted diseases, deposit funds in the state treasury, and disburse the funds.

#### **MT ST 50-18-104. Serological test for syphilis**

- (1) The department of public health and human services shall approve a standard serological test for syphilis. It shall also approve laboratories that may make the tests.
- (2) On request, the department shall make laboratory tests required by this chapter.

#### **MT ST 50-18-107. Powers and duties of health officers**

- (1) If found necessary or desirable to protect public health, state and local health officers or their authorized deputies or agents shall:
  - (a) examine or have examined persons reasonably suspected of being infected with a sexually transmitted disease;
  - (b) require persons infected to report for treatment to a reputable physician and continue treatment, which may be at public expense, until cured;
  - (c) isolate or quarantine persons who refuse examination or treatment;
  - (d) investigate sources of infection of a sexually transmitted disease.
- (2) No one but the state or local health officer may terminate the isolation or quarantine. Examinations may be made repeatedly as deemed advisable or desirable.

#### **MT ST 50-18-108. Examination and treatment of prisoners**

Any person confined or imprisoned in any state, county, or municipal prison within the state may be examined for a sexually transmitted disease. If infected, the person must be treated by health authorities.

#### **MT ST 50-18-109. Permissible release of information concerning infected...**

- (1) Information concerning persons infected or reasonably suspected to be infected with a sexually transmitted disease may be released only:
  - (a) to personnel of the department of public health and human services;
  - (b) to a physician who has written consent of the person whose record is requested;
  - (c) to a local health officer; or
  - (d) by the department of public health and human services or a local health officer or board under the circumstances allowed by Title 50, chapter 16, part 6.
- (2) For the purposes of this section, the term "information" includes all knowledge or intelligence and all communications of all knowledge or intelligence, oral or written or in record form, and also includes but is not limited to information concerning the location or nature of the activities or work of all local, state, or federal employees or officers engaged in sexually transmitted disease eradication work. Communications to and from personnel are privileged as provided in 26-1-810.

(3) The purpose of this section is to protect and preserve the principle of confidentiality in sexually transmitted disease work by local, state, and federal public personnel, as confidentiality is important to the success of all sexually transmitted disease eradication work and endeavor, and to require that the principle of confidentiality in the work remain inviolate.

#### **MT ST 50-18-110. Unlawful dispensing of drugs for cure or alleviation of...**

It is unlawful to prescribe, sell, or recommend any drugs, medicines, or other substances for the cure or alleviation of a sexually transmitted disease except upon prescription signed by a person legally authorized to do so by the pharmacy laws of this state.

#### **MT ST 50-18-113. Violation a misdemeanor**

A person who violates provisions of this chapter or rules adopted by the department of public health and human services concerning a sexually transmitted disease or who fails or refuses to obey any lawful order issued by a state or local health officer is guilty of a misdemeanor.

#### **MT ST 50-19-105. Report of positive test results**

All positive laboratory tests for any sexually transmitted diseases or hepatitis B surface antigen must be reported to the department by the laboratory preparing the test. The department shall prescribe the form and way of reporting.

## **NEBRASKA**

### **NE ST § 42-102. Minimum age; affliction with venereal disease, disqualification**

At the time of the marriage the male must be of the age of seventeen years or upward, and the female of the age of seventeen years or upward. No person who is afflicted with a venereal disease shall marry in this state.

### **NE ST § 71-502.01. Sexually transmitted diseases; enumerated**

Sexually transmitted diseases are declared to be contagious, infectious, communicable, and dangerous to the public health. Sexually transmitted diseases shall include, but not be limited to, syphilis, gonorrhea, chancroid, and such other sexually transmitted diseases as the Department of Health and Human Services may from time to time specify.

### **NE ST § 71-502.02. Sexually transmitted diseases; rules and regulations**

The Department of Health and Human Services shall adopt and promulgate such rules and regulations as shall, in its judgment, be necessary to control and suppress sexually transmitted diseases.

### **NE ST § 71-502.03. Pregnant women; subject to syphilis test; fee**

Every physician, or other person authorized by law to practice obstetrics, who is attending a pregnant woman in the state for conditions relating to her pregnancy during the period of gestation or at delivery shall take or cause to be taken a sample of the blood of such woman at the time of the first examination and shall submit such sample to an approved laboratory for a standard serological test for syphilis. Every other person permitted by law to attend pregnant women in the state, but not permitted by law to take blood samples, shall cause such a sample of the blood of such pregnant women to be taken by a physician, duly licensed to practice either medicine and surgery or obstetrics, or other person authorized by law to take such sample of blood and have such sample submitted to an approved laboratory for a standard serological test for syphilis. The results of all such laboratory tests shall be reported to the Department of Health and Human Services on standard forms prescribed and furnished by the department. For the purpose of this section, a standard serological test shall be a test for syphilis approved by the department and shall be made at a laboratory approved to make such tests by the department. Such laboratory tests, as are required by this section, shall be made on request at the Department of Health and Human Services Laboratory. A fee may be established by rule and regulation by the department to defray no more than the actual cost of such tests. Such fee shall be deposited in the state treasury and credited to the Health and Human Services Cash Fund. In reporting every birth and stillbirth, physicians and others required to make such reports shall state on the portion of the certificate entitled For Medical and Health Use Only whether a blood test for syphilis has been made upon a specimen of blood taken from the woman who bore the child for which a birth or stillbirth certificate is filed and the approximate date when the specimen was taken. No birth certificate shall show the result of such test. If no test was made, the reason shall be stated. The department shall provide the necessary clerical, printing, and other expenses in carrying out this section.

### **NE ST § 71-504. Sexually transmitted diseases; minors; treatment without...**

The chief medical officer as designated in section 81-3115, or local director of health, if a physician, or his or her agent, or any physician, upon consultation by any person as a patient, shall, with the consent of such person who is hereby granted the right of giving such consent, make or cause to be made a diagnostic

examination for sexually transmitted diseases and prescribe for and treat such person for sexually transmitted diseases including prophylactic treatment for exposure to sexually transmitted diseases whenever such person is suspected of having a sexually transmitted disease or contact with anyone having a sexually transmitted disease. All such examinations and treatment may be performed without the consent of or notification to the parent, parents, guardian, or any other person having custody of such person. In any such case, the chief medical officer, or local director of health, if a physician, or his or her agent, or the physician shall incur no civil or criminal liability by reason of having made such diagnostic examination or rendered such treatment, but such immunity shall not apply to any negligent acts or omissions. The chief medical officer or local director of health, if a physician, or his or her agent, or the physician shall incur no civil or criminal liability by reason of any adverse reaction to medication administered if reasonable care is taken to elicit from any such person who is under twenty years of age any history of sensitivity or previous adverse reaction to medication. Parents shall be liable for expenses of such treatment to minors under their custody. In the event such person is affected with a sexually transmitted disease, the chief medical officer or local director of health may cause an interview of the person by a sexually transmitted disease investigator to secure the names of sexual contacts so that appropriate investigation can be made in an effort to locate and eliminate sources of infection.

#### **NE ST § 71-7003.01. Department; funding; powers**

The department may apply for, receive, and administer funds received from private sources to pay for definitive diagnostic procedures for women enrolled in the breast and cervical cancer program authorized under sections 71-7001.01 to 71-7013 and funded through a grant from the United States Department of Health and Human Services.

This section does not create an entitlement for enrollees in the programs. Payments may be made to the extent funds are available in the order requests are received by the department.

The funds obtained for definitive diagnostic procedures shall be remitted to the State Treasurer for credit to the Breast and Cervical Cancer Cash Fund. Money credited to the fund for purposes of this section shall be used to reimburse the costs of definitive diagnostic procedures as provided in this section.

#### **NE ST § 71-7010. Breast and Cervical Cancer Cash Fund; created; use;...**

The Breast and Cervical Cancer Cash Fund is created. The fund shall consist of any money appropriated to it by the Legislature, any money received by the department for the program, including federal and other public and private funds, and funds credited under section 71-7003.01. Money in the fund may be used to reimburse expenses of members of the Breast and Cervical Cancer Advisory Committee, expenses of the program for early detection of breast and cervical cancer funded through a grant from the United States Department of Health and Human Services, and funds received under section 71-7003.01. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

#### **NE ST § 71-7012. Breast and Cervical Cancer Advisory Committee;...**

The Breast and Cervical Cancer Advisory Committee is established. The committee consists of the members of the Mammography Screening Committee serving immediately prior to September 9, 1995, and eight additional members appointed by the chief executive officer of the department or his or her designee who have expertise or a personal interest in cervical cancer. The committee shall consist of not more than twenty-

four volunteer members, at least eight of whom are women, appointed by the chief executive officer or his or her designee. Members of the committee shall be persons interested in health care, the promotion of breast cancer screening, and cervical cancer and shall be drawn from both the private sector and the public sector. At least one member shall be a person who has or who has had breast cancer.

Of the initial members of the committee, four shall be appointed for terms of one year and four shall be appointed for terms of two years. Thereafter all appointments shall be for terms of two years. All members shall serve until their successors are appointed. No member shall serve more than two successive two-year terms. Vacancies in the membership of the committee for any cause shall be filled by appointment by the chief executive officer or his or her designee for the unexpired term.

Duties of the committee shall include, but not be limited to, encouraging payment of public and private funds to the Breast and Cervical Cancer Cash Fund, researching and recommending to the department reimbursement limits, planning and implementing outreach and educational programs to Nebraska women, advising the department on its operation of the early detection of breast and cervical cancer grant from the United States Department of Health and Human Services, and encouraging payment of public and private funds to the fund. Members of the committee shall be reimbursed for their actual and necessary expenses as provided in sections 81-1174 to 81-1177.

#### **NE ST § 83-4,161. Communicable diseases; medical treatment protocols**

In developing medical treatment protocols for the clinics, the medical director shall define the circumstances under which chronically ill inmates should return to the chronic care clinics for check-ups and when appointments should be made for chronically ill inmates to next be examined by health care staff. In developing and implementing medical treatment protocols for clinics for the detection and treatment of communicable diseases, the medical director shall ensure that the medical treatment protocols include:

- (1) Provisions allowing for the routine immunization against communicable diseases of all inmates upon entering the custody of the department;
- (2) Provisions requiring each inmate to be screened for communicable diseases, including (a) human immunodeficiency virus, (b) hepatitis A virus, (c) hepatitis B virus, (d) hepatitis C virus, (e) tuberculosis, and (f) sexually transmitted diseases, when the inmate enters into the custody of the department;
- (3) Provisions requiring each inmate to be screened for (a) human immunodeficiency virus, unless previously tested positive, (b) hepatitis B virus, unless previously tested positive, (c) hepatitis C virus, unless previously tested positive, (d) tuberculosis, unless tested within the immediately preceding year or previously tested positive, and (e) sexually transmitted diseases, when the inmate leaves the custody of the department. No such screening shall be conducted without inmate consent;
- (4) Provisions requiring any inmate in the custody of the department found to be infected with any of the diseases referenced in subdivision (2) of this section, when medically indicated, to be immediately referred to an infectious disease specialist for appropriate treatment;
- (5) Provisions describing in detail those circumstances when it is medically desirable, because of risk to other noninfected inmates, to segregate, on an individual basis, any inmate found to be infected with the human immunodeficiency virus and also describing those circumstances when there is no longer a perceived medical need to continue the segregation of such an inmate;
- (6) Provisions requiring that all health care staff who provide health care services be screened for communicable diseases, including (a) human immunodeficiency virus, (b) hepatitis A virus, (c) hepatitis B virus, and (d) hepatitis C virus, upon their entry into the employment of the department, and that all health care staff also be screened annually for tuberculosis; and

(7) Provisions allowing for employees of the department who come into immediate personal contact with the inmates to be immunized for hepatitis B virus.

## NEVADA

### NV ST 287.0272. Coverage for human papillomavirus vaccination required...

1. If the governing body of any county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State of Nevada provides health insurance through a plan of self-insurance, the plan must provide coverage for benefits payable for expenses incurred for administering the human papillomavirus vaccine to women and girls at such ages as recommended for vaccination by a competent authority, including, without limitation, the Centers for Disease Control and Prevention of the United States Department of Health and Human Services, the Food and Drug Administration or the manufacturer of the vaccine.
2. The plan of self-insurance must not require an insured to obtain prior authorization for any service provided pursuant to subsection 1.
3. A plan of self-insurance described in subsection 1 which is delivered, issued for delivery or renewed on or after July 1, 2007, has the legal effect of including the coverage required by subsection 1, and any provision of the plan which is in conflict with subsection 1 is void.
4. For the purposes of this section, "human papillomavirus vaccine" means the Quadrivalent Human Papillomavirus Recombinant Vaccine or its successor which is approved by the Food and Drug Administration for the prevention of human papillomavirus infection and cervical cancer.

### NV ST 422.2718. State Plan for Medicaid: Inclusion of requirement for...

- (a) The Director shall include in the State Plan for Medicaid a requirement that the State shall pay the nonfederal share of expenses incurred for administering the human papillomavirus vaccine to women and girls at such ages as recommended for vaccination by a competent authority, including, without limitation, the Centers for Disease Control and Prevention of the United States Department of Health and Human Services, the Food and Drug Administration or the manufacturer of the vaccine.
- (b) For the purposes of this section, "human papillomavirus vaccine" means the Quadrivalent Human Papillomavirus Recombinant Vaccine or its successor which is approved by the Food and Drug Administration to be used for the prevention of human papillomavirus infection and cervical cancer.

### NV ST 441A.260. Provision of medical supplies and financial aid for...

If a person in this state who has a sexually transmitted disease is, in the discretion of the health authority, unable to afford approved treatment for the disease, the health authority may provide medical supplies or direct financial aid to any physician, clinic or dispensary in this state, within the limits of the available appropriations and any other resources, to be used in the person's treatment. A physician, clinic or dispensary that accepts supplies or aid pursuant to this section shall comply with all conditions prescribed by the Board relating to the use of the supplies or aid.

### NV ST 441A.290. Infected person to report source of infection

A person who has a sexually transmitted disease shall, upon request, inform the health authority of the source or possible source of the infection.

### **NV ST 441A.310. Examination and treatment of minor without consent**

Except as otherwise provided in NRS 441A.210, when any minor is suspected of having or is found to have a sexually transmitted disease, the health authority may require the minor to undergo examination and treatment, regardless of whether the minor or either of the minor's parents consents to the examination and treatment.

### **NV ST 441A.320. Testing of person alleged to have committed sexual...**

1. If the alleged victim or a witness to a crime alleges that the crime involved the sexual penetration of the victim's body, the health authority shall perform the tests set forth in subsection 2 as soon as practicable after the arrest of the person alleged to have committed the crime, but not later than 48 hours after the person is charged with the crime by indictment or information, unless the person alleged to have committed the crime is a child who will be adjudicated in juvenile court and then not later than 48 hours after the petition is filed with the juvenile court alleging that the child is delinquent for committing such an act.
2. If the health authority is required to perform tests pursuant to subsection 1, it must test a specimen obtained from the arrested person for exposure to the human immunodeficiency virus and any commonly contracted sexually transmitted disease, regardless of whether the person or, if the person is a child, the parent or guardian of the child consents to providing the specimen. The agency that has custody of the arrested person shall obtain the specimen and submit it to the health authority for testing. The health authority shall perform the test in accordance with generally accepted medical practices.
3. In addition to the test performed pursuant to subsection 2, the health authority shall perform such follow-up tests for the human immunodeficiency virus as may be deemed medically appropriate.
4. As soon as practicable, the health authority shall disclose the results of all tests performed pursuant to subsection 2 or 3 to:
  - a. The victim or to the victim's parent or guardian if the victim is a child; and
  - b. The arrested person and, if the person is a child, to the parent or guardian of the child.
5. If the health authority determines, from the results of a test performed pursuant to subsection 2 or 3, that a victim of sexual assault may have been exposed to the human immunodeficiency virus or any commonly contracted sexually transmitted disease, it shall, at the request of the victim, provide him or her with:
  - a. An examination for exposure to the human immunodeficiency virus and any commonly contracted sexually transmitted disease to which the health authority determines the victim may have been exposed;
  - b. Counseling regarding the human immunodeficiency virus and any commonly contracted sexually transmitted disease to which the health authority determines the victim may have been exposed; and
  - c. A referral for health care and other assistance, as appropriate.
6. If the court in:

- (a) A criminal proceeding determines that a person has committed a crime; or
- (b) A proceeding conducted pursuant to title 5 of NRS determines that a child has committed an act which, if committed by an adult, would have constituted a crime, involving the sexual penetration of a victim's body, the court shall, upon application by the health authority, order that child or other person to pay any expenses incurred in carrying out this section with regard to that child or other person and that victim.

7. The Board shall adopt regulations identifying, for the purposes of this section, sexually transmitted diseases which are commonly contracted.

8. As used in this section:

- (a) "Sexual assault" means a violation of NRS 200.366.
- (b) "Sexual penetration" has the meaning ascribed to it in NRS 200.364.

#### **NV ST 689A.044. Coverage for human papillomavirus vaccine**

1. A policy of health insurance must provide coverage for benefits payable for expenses incurred for administering the human papillomavirus vaccine to women and girls at such ages as recommended for vaccination by a competent authority, including, without limitation, the Centers for Disease Control and Prevention of the United States Department of Health and Human Services, the Food and Drug Administration or the manufacturer of the vaccine.
2. A policy of health insurance must not require an insured to obtain prior authorization for any service provided pursuant to subsection 1.
3. A policy subject to the provisions of this chapter which is delivered, issued for delivery or renewed on or after July 1, 2007, has the legal effect of including the coverage required by subsection 1, and any provision of the policy or the renewal which is in conflict with subsection 1 is void.
4. For the purposes of this section, "human papillomavirus vaccine" means the Quadrivalent Human Papillomavirus Recombinant Vaccine or its successor which is approved by the Food and Drug Administration for the prevention of human papillomavirus infection and cervical cancer.

#### **NV ST 689B.0313. Required provision concerning coverage for human...**

1. A policy of group health insurance must provide coverage for benefits payable for expenses incurred for administering the human papillomavirus vaccine to women and girls at such ages as recommended for vaccination by a competent authority, including, without limitation, the Centers for Disease Control and Prevention of the United States Department of Health and Human Services, the Food and Drug Administration or the manufacturer of the vaccine.
2. A policy of group health insurance must not require an insured to obtain prior authorization for any service provided pursuant to subsection 1.

3. A policy subject to the provisions of this chapter which is delivered, issued for delivery or renewed on or after July 1, 2007, has the legal effect of including the coverage required by subsection 1, and any provision of the policy or the renewal which is in conflict with subsection 1 is void.
4. For the purposes of this section, “human papillomavirus vaccine” means the Quadrivalent Human Papillomavirus Recombinant Vaccine or its successor which is approved by the Food and Drug Administration for the prevention of human papillomavirus infection and cervical cancer.

#### **NV ST 695B.1925. Required provision concerning coverage for human...**

1. A policy of health insurance issued by a hospital or medical service corporation must provide coverage for benefits payable for expenses incurred for administering the human papillomavirus vaccine to women and girls at such ages as recommended for vaccination by a competent authority, including, without limitation, the Centers for Disease Control and Prevention of the United States Department of Health and Human Services, the Food and Drug Administration or the manufacturer of the vaccine.
2. A policy of health insurance issued by a hospital or medical service corporation must not require an insured to obtain prior authorization for any service provided pursuant to subsection 1.
3. A policy subject to the provisions of this chapter which is delivered, issued for delivery or renewed on or after July 1, 2007, has the legal effect of including the coverage required by subsection 1, and any provision of the policy or the renewal which is in conflict with subsection 1 is void.
4. For the purposes of this section, “human papillomavirus vaccine” means the Quadrivalent Human Papillomavirus Recombinant Vaccine or its successor which is approved by the Food and Drug Administration for the prevention of human papillomavirus infection and cervical cancer.

#### **NV ST 695C.1745. Required provision concerning coverage for human...**

1. A health care plan of a health maintenance organization must provide coverage for benefits payable for expenses incurred for administering the human papillomavirus vaccine to women and girls at such ages as recommended for vaccination by a competent authority, including, without limitation, the Centers for Disease Control and Prevention of the United States Department of Health and Human Services, the Food and Drug Administration or the manufacturer of the vaccine.
2. A health care plan of a health maintenance organization must not require an insured to obtain prior authorization for any service provided pursuant to subsection 1.
3. Any evidence of coverage subject to the provisions of this chapter which is delivered, issued for delivery or renewed on or after July 1, 2007, has the legal effect of including the coverage required by subsection 1, and any provision of the evidence of coverage or the renewal which is in conflict with subsection 1 is void.
4. For the purposes of this section, “human papillomavirus vaccine” means the Quadrivalent Human Papillomavirus Recombinant Vaccine or its successor which is approved by the Food and Drug Administration for the prevention of human papillomavirus infection and cervical cancer.

## NV ST 695G.171. Required provision concerning coverage for human...

1. A health care plan issued by a managed care organization must provide coverage for benefits payable for expenses incurred for administering the human papillomavirus vaccine to women and girls at such ages as recommended for vaccination by a competent authority, including, without limitation, the Centers for Disease Control and Prevention of the United States Department of Health and Human Services, the Food and Drug Administration or the manufacturer of the vaccine.
2. A health care plan must not require an insured to obtain prior authorization for any service provided pursuant to subsection 1.
3. An evidence of coverage for a health care plan subject to the provisions of this chapter which is delivered, issued for delivery or renewed on or after July 1, 2007, has the legal effect of including the coverage required by subsection 1, and any provision of the evidence of coverage or the renewal thereof which is in conflict with subsection 1 is void.
4. For the purposes of this section, “human papillomavirus vaccine” means the Quadrivalent Human Papillomavirus Recombinant Vaccine or its successor which is approved by the Food and Drug Administration for the prevention of human papillomavirus infection and cervical cancer.

## **NEW HAMPSHIRE**

### **NH ST § 141-C:18. Sexually Transmitted Disease**

- I. The commissioner may request the examination, and order isolation, quarantine, and treatment of any person reasonably suspected of having been exposed to or of exposing another person or persons to a sexually transmitted disease. Any order of treatment issued under this paragraph shall be in accordance with RSA 141-C:11, RSA 141-C:12, and RSA 141-C:15.
  
- II. Any minor 14 years of age or older may voluntarily submit himself to medical diagnosis and treatment for a sexually transmitted disease and a licensed physician may diagnose, treat or prescribe for the treatment of a sexually transmitted disease in a minor 14 years of age or older, without the knowledge or consent of the parent or legal guardian of such minor.

## **NEW JERSEY**

### **NJ ST 26:2-167.1. Eliminating Health Disparities Initiative**

The Commissioner of Health shall establish the “Eliminating Health Disparities Initiative” in the Office on Minority and Multicultural Health. The commissioner shall require the office to develop and implement a comprehensive, coordinated plan to reduce health disparities between White and racial and ethnic minority populations in the State in the following priority areas: asthma; infant mortality; breast, cervical, prostate and colorectal cancer screening; kidney disease; HIV/AIDS; hepatitis C; sexually transmitted diseases; adult and child immunizations; cardiovascular disease; diabetes; and accidental injuries and violence. As used in this act, “office” means the New Jersey Office on Minority and Multicultural Health.

### **NJ ST 26:4-27. Definitions**

As used in this article:

“Venereal disease” includes syphilis, gonorrhea, chancroid, lymphogranuloma venereum and granuloma inguinale.

“Treating a venereal disease” includes the treatment of or attempt to treat a venereal disease by prescription, formula, patented or proprietary medicine or compound or otherwise, or the sale or gift, for the purpose of treating or attempting to treat such a disease, of any prescription, formula, patented or proprietary medicine or compound which either by itself or in connection with any other treatment, medicine, or compound is claimed to be useful, or to cure, relieve, or arrest in any way any venereal disease.

“Licensed health officer” shall mean and include only a person holding office as a local health officer who holds a valid health officer's license issued by the State Department of Health.

### **NJ ST 26:4-28. Venereal diseases declared infectious and communicable**

Syphilis, gonorrhea, chancroid, lymphogranuloma venereum and granuloma inguinale are hereby declared to be infectious and communicable diseases, dangerous to the public health.

### **NJ ST 26:4-47. Free diagnosis and treatment by state department of health**

The State Department of Health may:

- a. Provide appropriate laboratory services for the diagnosis of sexually-transmitted diseases;
- b. Provide antibiotics and other appropriate drugs and biologicals for the treatment and prevention of sexually-transmitted diseases.
- c. (Deleted by amendment.)
- d. (Deleted by amendment.)

The Commissioner of Health may promulgate rules and regulations pertaining to payment for services and materials provided by the department hereunder, including a schedule of fees for such services and materials, consistent with the promotion of public health and the prevention of disease within the State.

### **NJ ST 26:4-49.1. Pregnant women; blood sample; standard serological...**

Every physician attending pregnant women in the State for conditions relating to their pregnancy during the period of gestation and/or at delivery shall, in the case of every woman so attended, take or cause to be taken a sample of blood of such woman at the time of first examination and take or cause to be taken a sample of blood of the woman or from the umbilical cord of the infant at the time of delivery of a live infant, and shall submit such sample to an approved laboratory for a standard serological test for syphilis. Every other person permitted by law to attend pregnant women in the State, but not permitted by law to take blood samples, shall cause a sample of blood of such pregnant women or postpartum woman or infant, as the case may be, to be taken by a physician duly licensed to practice medicine and surgery and have such sample submitted to an approved laboratory for a standard serological test for syphilis.

### **NJ ST 26:4-49.2. Standard serological test; duty of state department of health**

For the purpose of this act a standard serological test shall be a test for syphilis approved by the State Department of Health, and shall be made at a laboratory licensed in syphilis serology by the department, or by a laboratory in this State approved to make such tests by said department, or at a laboratory outside this State approved by said department, or the health department of the state or territory of the United States or District of Columbia wherein it is located, or at a laboratory of the Armed Forces of the United States or the United States Public Health Services. Such laboratory tests as are required by this act may, at the option of the department, be performed in the laboratories of the State Department of Health without charge.

### **NJ ST 26:4-49.6. Examination of migrant laborers; notice to state...**

Any migrant laborer who cannot show satisfactory evidence of examination for syphilis, gonorrhea and other venereal diseases having been performed by a health department or licensed physician within ninety days prior to entry into New Jersey shall submit to such examination as prescribed by the State Department of Health within thirty days after such entry. Said examination shall be performed by a duly licensed physician chosen by the migrant laborer or provided by the State Department of Health.

Any person who shall employ one or more migrant laborers shall notify the State Department of Health within five days of the commencement of such employment whether such person or persons have been examined as required by this section.

### **NJ ST 26:4-95.3. Legislative findings and declarations; human papillomavirus**

The Legislature finds and declares that:

- a. The human papillomavirus (HPV) is the most common sexually transmitted infection in the United States, and can be transmitted without intercourse;
- b. Although most HPV infections are benign and many strains clear on their own, certain strains have serious consequences, including cervical cancer and genital warts;
- c. HPV has been detected in over 90% of cervical cancer cases, and the American Cancer Society estimates that over 9,700 new cases of HPV-related cervical cancer will occur in the United States this year; and
- d. It is appropriate to take measures through education to significantly reduce medical problems and deaths attributable to HPV.

#### **NJ ST 26:4-95.4. Public awareness campaign relative to the human...**

- (a) The Commissioner of Health, in consultation with the Commissioner of Education and the Director of the Division on Women in the Department of Children and Families, shall establish a public awareness campaign to inform the general public about the clinical significance and public health implications of the human papillomavirus, including its causes and the most effective means of prevention and treatment. The public awareness campaign shall be established in accordance with accepted public health practice and recommendations of the federal Centers for Disease Control and Prevention, and within the limits of available funds and any other resources available for the purposes thereof.
- (b) The commissioner shall prepare a patient information brochure regarding the human papillomavirus, including its causes and the most effective means of prevention and treatment. The department shall distribute the pamphlet, at no charge, to all pediatricians in the State. The department shall update the pamphlet as necessary, and shall make additional copies of the pamphlet available to other health care providers upon request.

#### **NJ ST 2C:34-5. Diseased person committing an act of sexual penetration.**

- a. A person is guilty of a crime of the fourth degree who, knowing that he or she is infected with a venereal disease such as chancroid, gonorrhea, syphilis, herpes virus, or any of the varieties or stages of such diseases, commits an act of sexual penetration without the informed consent of the other person.
- b. A person is guilty of a crime of the third degree who, knowing that he or she is infected with human immune deficiency virus (HIV) or any other related virus identified as a probable causative agent of acquired immune deficiency syndrome (AIDS), commits an act of sexual penetration without the informed consent of the other person.

#### **NJ ST 52:4B-44. Standards to ensure rights of crime victims**

- a. The Attorney General shall, through the Office of Victim-Witness Advocacy in the Division of Criminal Justice in the Department of Law and Public Safety and in consultation with the county prosecutors, promulgate standards for law enforcement agencies to ensure that the rights of crime victims are enforced.
- b. The standards shall require that the Office of Victim-Witness Advocacy in the Division of Criminal Justice and each county prosecutor's office provide the following services upon request for victims and witnesses involved in the prosecution of a case:
  - (1) Orientation information about the criminal justice system and the victim's and witness's role in the criminal justice process;
  - (2) Notification of any change in the case status and of final disposition;
  - (3) Information on crime prevention and on available responses to witness intimidation;
  - (4) Information about available services to meet needs resulting from the crime and referrals to service agencies, where appropriate;
  - (5) Advance notice of the date, time and place of the defendant's initial appearance before a judicial officer, submission to the court of any plea agreement, the trial and sentencing;
  - (6) Advance notice of when presence in court is not needed;

- (7) Advice about available compensation, restitution and other forms of recovery and assistance in applying for government compensation;
- (8) A waiting or reception area separate from the defendant for use during court proceedings;
- (9) An escort or accompaniment for intimidated victims or witnesses during court appearances;
- (10) Information about directions, parking, courthouse and courtroom locations, transportation services and witness fees, in advance of court appearances;
- (11) Assistance for victims and witnesses in meeting special needs when required to make court appearances, such as transportation and child care arrangements;
- (12) Assistance in making travel and lodging arrangements for out-of-State witnesses;
- (13) Notification to employers of victims and witnesses, if cooperation in the investigation or prosecution causes absence from work;
- (14) Notification of the case disposition, including the trial and sentencing;
- (15) Assistance to victims in submitting a written statement to a representative of the county prosecutor's office about the impact of the crime prior to the prosecutor's final decision concerning whether formal charges will be filed;
- (16) Advice to victims about their right to make a statement about the impact of the crime for inclusion in the presentence report or at time of parole consideration, if applicable;
- (17) Notification to victims of the right to make an in-person statement, prior to sentencing, directly to the sentencing court concerning the impact of the crime;
- (18) Expediting the return of property when no longer needed as evidence;
- (19) Advise and counsel, or refer for advice or counseling, victims of sexual assault, or other criminal acts involving a risk of transmission of disease, concerning available medical testing and assist such victims, or refer such victims for assistance, in obtaining appropriate testing, counseling and medical care and in making application to the Victims of Crime Compensation Board for compensation for the costs of such testing, counseling and care;
- (20) Assistance to victims in submitting a written impact statement to a representative of the county prosecutor's office concerning the impact of the crime which shall be considered prior to the prosecutor's accepting a negotiated plea agreement containing recommendations as to sentence and assistance to victims in securing an explanation of the terms of any such agreement and the reasons for the agreement;
- (21) Notification to the victim of the defendant's release from custody which shall include:
  - (a) notice of the defendant's escape from custody and return to custody following escape;
  - (b) notice of any other release from custody, including placement in an Intensive Supervision Program or other alternative disposition, and any associated conditions of release;
  - (c) notice of the filing by an inmate of an application for commutation of sentence pursuant to N.J.S.2A:167-4 and its disposition;
  - (d) notice of parole consideration pursuant to provisions of P.L.1979, c. 441 (C.30:4-123.45 et seq.); and
  - (e) notice of the pending release of an inmate due to expiration of sentence; and
- (22) Interpreting services for victims and witnesses when necessary to assist a victim or witness who is hearing impaired or developmentally disabled as defined in section 3 of P.L.1977, c. 82 (C.30:6D-3) to understand questions and frame answers.

c. In a case involving a victim of aggravated sexual assault or sexual assault as defined in subsection a. or c. of N.J.S.2C:14-2, the Office of Victim-Witness Advocacy or the county prosecutor's office involved in the case shall:

- (1) Notify the victim of the victim's right to obtain an approved serological test for acquired immune deficiency syndrome (AIDS) or infection with the human immunodeficiency virus (HIV) or any other related virus identified as a probable causative agent of AIDS, and assist the victim, or refer the victim for assistance, in obtaining a test and appropriate counseling and medical care;
  - (2) Notify the victim of the victim's right to obtain a court order pursuant to subsection a. of section 4 of P.L.1993, c. 364 (C.2C:43-2.2) requiring the offender to submit to an approved serological test for acquired immune deficiency syndrome (AIDS) or infection with the human immunodeficiency virus (HIV) or any other related virus identified as a probable causative agent of AIDS in the event that the offender is indicted, formally charged, convicted or adjudicated delinquent;
  - (3) Communicate the request of a victim who agrees to seek an order pursuant to subsection a. of section 4 of P.L.1993, c. 364 (C.2C:43-2.2) to the prosecutor handling the case and notify the victim or arrange for the victim to be notified of the test result; and
  - (4) Assist the victim in applying to the Victims of Crime Compensation Board for compensation for the costs of testing, counseling and medical care.
- d. The Attorney General shall, through the Office of Victim-Witness Advocacy and in consultation with the Commissioner of Health and Senior Services, the Superintendent of State Police and representatives of providers of sexual assault services, to be designated by the Director of the Office of Victim-Witness Advocacy, coordinate the establishment of standard protocols for the provision of information and services to victims of sexual assault, and shall make such protocols available to victims upon request, except that the provision of information and services with regard to emergency contraception and sexually transmitted diseases shall be in accordance with P.L.2005, c. 50 (C.26:2H-12.6b et al.).
- e. In a case involving a victim of human trafficking as defined in section 1 of P.L.2005, c. 77 (C.2C:13-8) the Office of Victim- Witness Advocacy or the county prosecutor's office involved in the case shall ensure that the victim of human trafficking obtains assistance in receiving any available benefits or services, including assistance in receiving any necessary certifications or endorsements needed to be recognized as having federal T non-immigrant status for the purpose of receiving any federal benefits or services available pursuant to the "Trafficking Victims Protection Reauthorization Act of 2003," 22 U.S.C. s. 7101 et seq.
- f. The Attorney General shall, through the Office of Victim-Witness Advocacy and in consultation with the Commissioner of the Department of Health and Senior Services, the Superintendent of State Police and representatives of providers of services to victims of human trafficking, to be designated by the Director of the Office of Victim-Witness Advocacy, coordinate the establishment of standard protocols for the provision of information and services to victims of human trafficking, including coordination of efforts with the appropriate federal authorities pursuant to the "Trafficking Victims Protection Reauthorization Act of 2003," 22 U.S.C. s. 7101 et seq. and shall make such protocols available to victims upon request.

#### **NJ ST 9:17A-4. Consent by minor to medical care or treatment; venereal...**

The consent to the provision of medical or surgical care or services by a hospital, public clinic, or the performance of medical or surgical care or services by a physician, licensed to practice medicine, when executed by a minor who is or believes that he may be afflicted with a venereal disease, or who is at least 13 years of age and is or believes that he may be infected with the human immunodeficiency virus or have acquired immune deficiency syndrome, or by a minor who, in the judgment of a treating physician, appears to have been sexually assaulted, shall be valid and binding as if the minor had achieved his or her majority, as the case may be. Any such consent shall not be subject to later disaffirmance by reason of minority. In the case of

a minor who appears to have been sexually assaulted, the minor's parents or guardian shall be notified immediately, unless the attending physician believes that it is in the best interests of the patient not to do so; however, inability of the treating physician, hospital or clinic to locate or notify the parents or guardian shall not preclude the provision of any necessary emergency medical or surgical care to the minor.

When a minor believes that he is suffering from the use of drugs or is a drug dependent person as defined in section 2 of P.L.1970, c. 226 (C.24:21-2) or is suffering from alcohol dependency or is an alcoholic as defined in section 2 of P.L.1975, c. 305 (C.26:2B-8), his consent to treatment under the supervision of a physician licensed to practice medicine, or an individual licensed or certified to provide treatment for alcoholism or in a facility licensed by the State to provide for the treatment of alcoholism shall be valid and binding as if the minor had achieved his or her majority, as the case may be. Any such consent shall not be subject to later disaffirmance by reason of minority. Treatment for drug use, drug abuse, alcohol use or alcohol abuse that is consented to by a minor shall be considered confidential information between the physician, the treatment provider or the treatment facility, as appropriate, and his patient, and neither the minor nor his physician, treatment provider or treatment facility, as appropriate, shall be required to report such treatment when it is the result of voluntary consent, except as may otherwise be required by law.

The consent of no other person or persons, including but not limited to a spouse, parent, custodian or guardian, shall be necessary in order to authorize such hospital, facility or clinical care or services or medical or surgical care or services to be provided by a physician licensed to practice medicine or by an individual licensed or certified to provide treatment for alcoholism to such a minor.

## NEW MEXICO

### NM ST § 24-1-7. Sexually transmitted diseases; reports of cases

- A. Every physician who makes a diagnosis of or treats or prescribes for a case of a sexually transmitted disease, every superintendent or manager of a clinic, dispensary or charitable or penal institution in which there is a case of a sexually transmitted disease and every laboratory performing a positive laboratory test for a sexually transmitted disease shall report the case immediately, in writing, on a form splied by the department to the district health officer in the district in which they are located.
- B. All district health officers shall make weekly reports to the department on forms supplied by the department of all cases of a sexually transmitted disease reported to them during the preceding week.

### NM ST § 24-1-8. Communication regarding sexually transmitted diseases

If any attending physician knows or has good reason to suspect that a person having a sexually transmitted disease may conduct himself so as to expose other persons to infection, he shall notify the district health officer of the name and address of the diseased person and the facts of the case.

### NM ST § 24-1-9. Capacity to consent to examination and treatment for a...

Any person regardless of age has the capacity to consent to an examination and treatment by a licensed physician for any sexually transmitted disease.

#### NM ST § 24-1-9.1. Sexually transmitted diseases; testing of persons...

- A. A test designed to identify any sexually transmitted disease may be performed on an offender convicted pursuant to state law of any criminal offense:
  - (1) involving contact between the penis and the vulva;
  - (2) involving contact between the penis and anus;
  - (3) involving contact between the mouth and penis;
  - (4) involving contact between the mouth and vulva;
  - (5) involving contact between the mouth and anus; or
  - (6) when the court determines from the facts of the case that there was a transmission or likelihood of transmission of bodily fluids from the offender to the victim of the criminal offense.
- B. When consent to perform a test on an offender cannot be obtained, the victim of a criminal offense described in Subsection A of this section may petition the court to order that a test be performed on the offender. When the victim of the criminal offense is a minor or an incompetent, the parent or legal guardian of the victim may petition the court to order that a test be performed on the offender. The court shall order and the test shall be administered to the offender within ten days after the petition is filed by the victim, his parent or guardian. The results of the test shall be disclosed only to the offender and to the victim or the victim's parent or legal guardian.

## **NM ST § 24-1-9.2. Sexually transmitted diseases; testing of persons...**

- A. A test designed to identify any sexually transmitted disease may be performed on a person, upon the filing of a complaint, information or an indictment alleging that the person committed a state criminal offense:
- (1) involving contact between the penis and the vulva;
  - (2) involving contact between the penis and anus;
  - (3) involving contact between the mouth and penis;
  - (4) involving contact between the mouth and vulva; or
  - (5) involving contact between the mouth and anus.
- B. If consent to perform a test on an alleged offender cannot be obtained, the victim of the alleged criminal offense described in Subsection A of this section may petition the court, through the prosecuting office or personally, to order that a test be performed on the alleged offender; provided that the same test is first performed on the victim of the alleged criminal offense. The test may be performed on the alleged offender regardless of the result of the test performed on the victim of the alleged criminal offense. If the victim of the alleged criminal offense is a minor or incompetent, the parent or legal guardian of the victim of the alleged criminal offense may petition the court to order that a test be performed on the alleged offender.
- C. The court may issue an order based on a finding of good cause after a hearing at which both the victim of the alleged criminal offense and the alleged offender have the right to be present. During the hearing, only affidavits, counter affidavits and medical reports regarding the facts that support or rebut the issuance of an order shall be admissible. The hearing shall be conducted within seventy-two hours after the victim petitions the court for the order. The petition and all proceedings in connection therewith shall be under seal. The court shall issue an order and the test shall be administered to the alleged offender within ten days after the petition is filed by the victim of the alleged criminal offense, his parent or guardian.
- D. The results of the test shall be disclosed only to the alleged offender and to the victim of the alleged criminal offense or the victim's parent or legal guardian. When the victim of the alleged criminal offense or the alleged offender has a positive test result, both the alleged offender and the victim of the alleged criminal offense shall be provided with counseling.
- E. A prosecuting attorney may not use in a criminal proceeding arising out of the alleged criminal offense the fact that a test was administered to the alleged offender or the results of the test.
- F. The provisions of this section shall not affect the rights and remedies available to the victim of the alleged criminal offense and the alleged offender in any civil action.
- G. The administration of a test to an alleged offender pursuant to the provisions of this section shall not preclude the subsequent administration of another test pursuant to the provisions of Section 24-1-9.1 NMSA 1978.

## **NM ST § 24-1-9.4. Sexually transmitted diseases; confidentiality**

Except as provided in Section 24-1-9.2 NMSA 1978, no person or the person's agents or employees who require or administer a test for sexually transmitted diseases shall disclose the identity of any person upon

whom a test is performed or the result of such a test in a manner that permits identification of the subject of the test, except to the following persons:

- A. the subject of the test or the subject's legally authorized representative, guardian or legal custodian;
- B. any person designated in a legally effective release of the test results executed prior to or after the test by the subject of the test or the subject's legally authorized representative;
- C. an authorized agent, a credentialed or privileged physician or employee of a health facility or health care provider if the health care facility or health care provider itself is authorized to obtain the test results, the agent or employee provides patient care or handles or processes specimens of body fluids or tissues and the agent or employee has a need to know such information;
- D. the department of health and the centers for disease control and prevention of the United States public health service in accordance with reporting requirements for a diagnosed case of a sexually transmitted disease;
- E. a health facility or health care provider that procures, processes, distributes or uses:
  - (1) a human body part from a deceased person, with respect to medical information regarding that person;
  - (2) semen for the purpose of artificial insemination;
  - (3) blood or blood products for transfusion or injection; or
  - (4) human body parts for transplant with respect to medical information regarding the donor or recipient;
- F. health facility staff committees or accreditation or oversight review organizations that are conducting program monitoring, program evaluation or service reviews, as long as any identity remains confidential;
- G. authorized medical or epidemiological researchers who may not further disclose any identifying characteristics or information; and
- H. for purposes of application or reapplication for insurance coverage, an insurer or reinsurer upon whose request the test was performed.

#### **NM ST § 24-1-9.5. Sexually transmitted diseases; disclosure statement**

No person to whom the results of a test for sexually transmitted diseases have been disclosed may disclose the test results to another person, except as authorized in Sections 24-1-9.4 and 24-1-9.6 NMSA 1978. Whenever disclosure is made, it shall be accompanied by a statement in writing that includes the following or substantially similar language:

“This information has been disclosed to you from records whose confidentiality is protected by state law. State law prohibits you from making any further disclosure of such information without the specific written consent of the person to whom such information pertains, or as otherwise permitted by state law. A person who makes an unauthorized disclosure of this information is guilty of a petty misdemeanor and shall be sentenced to imprisonment in the county jail for a definite term not to exceed six months or the payment of a fine of not more than five hundred dollars (\$500), or both.”

## **NM ST § 24-1-9.6. Sexually transmitted diseases; disclosure**

A victim of an alleged criminal offense who receives information pursuant to Section 24-1-9.2 NMSA 1978 may disclose the test results as is reasonably necessary to protect his health and safety or the health and safety of his family or sexual partner.

## **NM ST § 59A-22-40. Coverage for cytologic and human papillomavirus...**

- A. Each individual and group health insurance policy, health care plan and certificate of health insurance delivered or issued for delivery in this state shall provide coverage for cytologic and human papillomavirus screening for determining the presence of precancerous or cancerous conditions and other health problems. The coverage shall make available cytologic screening, as determined by the health care provider in accordance with national medical standards, for women who are eighteen years of age or older and for women who are at risk of cancer or at risk of other health conditions that can be identified through cytologic screening. The coverage shall make available human papillomavirus screening once every three years for women aged thirty and older.
- B. Coverage for cytologic and human papillomavirus screening may be subject to deductibles and coinsurance consistent with those imposed on other benefits under the same policy, plan or certificate.
- C. The provisions of this section shall not apply to short-term travel, accident-only or limited or specified-disease policies. D. For the purposes of this section:
  - (1) "cytologic screening" means a Papanicolaou test and a pelvic exam for asymptomatic as well as symptomatic women;
  - (2) "health care provider" means any person licensed within the scope of his practice to perform cytologic and human papillomavirus screening, including physicians, physician assistants, certified nurse midwives and certified nurse practitioners; and
  - (3) "human papillomavirus screening" means a test approved by the federal food and drug administration for detection of the human papillomavirus.

## **NM ST § 59A-22-40.1. Coverage for the human papillomavirus vaccine**

- A. An individual or group health insurance policy, health care plan or certificate of health insurance that is delivered, issued for delivery or renewed in this state shall provide coverage for the human papillomavirus vaccine to females nine to fourteen years of age.
- B. Coverage for the human papillomavirus vaccine may be subject to deductibles and coinsurance consistent with those imposed on other benefits under the same policy, plan or certificate.
- C. The provisions of this section shall not apply to short-term travel, accident-only or limited or specified disease policies.
- D. For the purposes of this section, "human papillomavirus vaccine" means a vaccine approved by the federal food and drug administration used for the prevention of human papillomavirus infection and cervical precancers.

### **NM ST § 59A-46-42.1. Coverage for the human papillomavirus vaccine**

- A. An individual or group health maintenance organization contract delivered, issued for delivery or renewed in this state shall provide coverage for the human papillomavirus vaccine to females nine to fourteen years of age.
- B. Coverage for the human papillomavirus vaccine may be subject to deductibles and coinsurance consistent with those imposed on other benefits under the same policy, plan or certificate.
- C. The provisions of this section shall not apply to short-term travel, accident-only or limited or specified disease policies.
- D. For the purposes of this section, “human papillomavirus vaccine” means a vaccine approved by the federal food and drug administration used for the prevention of human papillomavirus infection and cervical precancers.

## **NEW YORK**

### **NY PUB HEALTH § 2306. Sexually transmitted diseases; reports and...**

All reports or information secured by a board of health or health officer under the provisions of this article shall be confidential except in so far as is necessary to carry out the purposes of this article. Such report or information may be disclosed by court order in a criminal proceeding in which it is otherwise admissible or in a proceeding pursuant to article ten of the family court act in which it is otherwise admissible, to the prosecution and to the defense, or in a proceeding pursuant to article ten of the family court act in which it is otherwise admissible, to the petitioner, respondent and attorney for the child, provided that the subject of the report or information has waived the confidentiality provided for by this section except insofar as is necessary to carry out the purposes of this article. Information may be disclosed to third party reimbursers or their agents to the extent necessary to reimburse health care providers for health services; provided that, when necessary, an otherwise appropriate authorization for such disclosure has been secured by the provider. A person waives the confidentiality provided for by this section if such person voluntarily discloses or consents to disclosure of such report or information or a portion thereof. If such person lacks the capacity to consent to such a waiver, his or her parent, guardian or attorney may so consent. An order directing disclosure pursuant to this section shall specify that no report or information shall be disclosed pursuant to such order which identifies or relates to any person other than the subject of the report or information. Reports and information may be used in the aggregate in programs approved by the commissioner for the improvement of the quality of medical care provided to persons with sexually transmitted diseases; or with patient identifiers when used within the state or local health department by public health disease programs to assess co-morbidity or completeness of reporting and to direct program needs, in which case patient identifiers shall not be disclosed outside the state or local health department except as otherwise provided for in this section.

### **NY PUB HEALTH § 2307. Venereal disease; person knowing himself to be...**

Any person who, knowing himself or herself to be infected with an infectious venereal disease, has sexual intercourse with another shall be guilty of a misdemeanor.

### **NY PUB HEALTH § 2311. Sexually transmitted disease list**

The commissioner shall promulgate a list of sexually transmitted diseases, such as gonorrhea and syphilis, for the purposes of this article. The commissioner, in determining the diseases to be included in such list, shall consider those conditions principally transmitted by sexual contact, other sections of this chapter addressing communicable diseases and the impact of particular diseases on individual morbidity and the health of newborns.

## **NORTH CAROLINA**

### **NC ST § 15A-615. Testing of certain persons for sexually transmitted infections**

(a) After a finding of probable cause pursuant to the provisions of Article 30 of Chapter 15A of the General Statutes or indictment for an offense that involves nonconsensual vaginal, anal, or oral intercourse; an offense that involves vaginal, anal, or oral intercourse with a child 12 years old or less; or an offense under G.S. 14-202.1 that involves vaginal, anal, or oral intercourse with a child less than 16 years old; the victim or the parent, guardian, or guardian ad litem of a minor victim may request that a defendant be tested for the following sexually transmitted infections:

- (1) Chlamydia;
- (2) Gonorrhea;
- (3) Hepatitis B;
- (3a) Herpes;
- (4) HIV; and
- (5) Syphilis.

In the case of herpes, the defendant, pursuant to the provisions of this section, shall be examined for oral and genital herpetic lesions and, if a suggestive but nondiagnostic lesion is present, a culture for herpes shall be performed.

- (b) Upon a request under subsection (a) of this section, the district attorney shall petition the court on behalf of the victim for an order requiring the defendant to be tested. Upon finding that there is probable cause to believe that the alleged sexual contact involved in the offense would pose a significant risk of transmission of a sexually transmitted infection listed in subsection (a) of this section, the court shall order the defendant to submit to testing for these infections. A defendant ordered to be tested under this section shall be tested not later than 48 hours after the date of the court order. A test for HIV ordered pursuant to this section shall use the HIV-RNA Detection Test for determining HIV infection.
- (c) If the defendant is in the custody of the Division of Adult Correction of the Department of Public Safety, the defendant shall be tested by the Division of Adult Correction of the Department of Public Safety. If the defendant is not in the custody of the Division of Adult Correction of the Department of Public Safety, the defendant shall be tested by the local health department. The Division of Adult Correction of the Department of Public Safety shall inform the local health director of all test results. The local health director shall ensure that the victim is informed of the results of the tests and counseled appropriately. The agency conducting the tests shall inform the defendant of the results of the tests and ensure that the defendant is counseled appropriately. The results of the tests shall not be admissible as evidence in any criminal proceeding.

### **NC ST § 58-51-57. Coverage for mammograms and cervical cancer screening**

(a) Every policy or contract of accident or health insurance, and every preferred provider benefit plan under G.S. 58-50-56, that is issued, renewed, or amended on or after January 1, 1992, shall provide coverage for examinations and laboratory tests for the screening for the early detection of cervical cancer and for low-dose screening mammography. The same deductibles, coinsurance, and other limitations as apply to similar services covered under the policy, contract, or plan shall apply to coverage for examinations and laboratory tests for the screening for the early detection of cervical cancer and low-dose screening mammography.

- (a1) As used in this section, “examinations and laboratory tests for the screening for the early detection of cervical cancer” means conventional PAP smear screening, liquid-based cytology, and human papilloma virus (HPV) detection methods for women with equivocal findings on cervical cytologic analysis that are subject to the approval of and have been approved by the United States Food and Drug Administration.
- (b) As used in this section, “low-dose screening mammography” means a radiologic procedure for the early detection of breast cancer provided to an asymptomatic woman using equipment dedicated specifically for mammography, including a physician's interpretation of the results of the procedure.
- (c) Coverage for low-dose screening mammography shall be provided as follows:
- (1) One or more mammograms a year, as recommended by a physician, for any woman who is at risk for breast cancer. For purposes of this subdivision, a woman is at risk for breast cancer if any one or more of the following is true:
    - a. The woman has a personal history of breast cancer;
    - b. The woman has a personal history of biopsy-proven benign breast disease;
    - c. The woman's mother, sister, or daughter has or has had breast cancer; or d. The woman has not given birth prior to the age of 30;
  - (2) One baseline mammogram for any woman 35 through 39 years of age, inclusive;
  - (3) A mammogram every other year for any woman 40 through 49 years of age, inclusive, or more frequently upon recommendation of a physician; and
  - (4) A mammogram every year for any woman 50 years of age or older.
- (d) Reimbursement for a mammogram authorized under this section shall be made only if the facility in which the mammogram was performed meets mammography accreditation standards established by the North Carolina Medical Care Commission.
- (e) Coverage for the screening for the early detection of cervical cancer shall be in accordance with the most recently published American Cancer Society guidelines or guidelines adopted by the North Carolina Advisory Committee on Cancer Coordination and Control. Coverage shall include the examination, the laboratory fee, and the physician's interpretation of the laboratory results. Reimbursements for laboratory fees shall be made only if the laboratory meets accreditation standards adopted by the North Carolina Medical Care Commission.

### **NC ST § 58-65-92. Coverage for mammograms and cervical cancer screening**

- (a) Every insurance certificate or subscriber contract under any hospital service plan or medical service plan governed by this Article and Article 66 of this Chapter, and every preferred provider benefit plan under G.S. 58-50-56, that is issued, renewed, or amended on or after January 1, 1992, shall provide coverage for examinations and laboratory tests for the screening for the early detection of cervical cancer and for low-dose screening mammography. The same deductibles, coinsurance, and other limitations as apply to similar services covered under the certificate or contract shall apply to coverage for examinations and laboratory tests for the screening for the early detection of cervical cancer and low-dose screening mammography.

- (a1) As used in this section, “examinations and laboratory tests for the screening for the early detection of cervical cancer” means conventional PAP smear screening, liquid-based cytology, and human papilloma virus (HPV) detection methods for women with equivocal findings on cervical cytologic analysis that are subject to the approval of and have been approved by the United States Food and Drug Administration.
- (b) As used in this section, “low-dose screening mammography” means a radiologic procedure for the early detection of breast cancer provided to an asymptomatic woman using equipment dedicated specifically for mammography, including a physician's interpretation of the results of the procedure.
- (c) Coverage for low-dose screening mammography shall be provided as follows:
- (1) One or more mammograms a year, as recommended by a physician, for any woman who is at risk for breast cancer. For purposes of this subdivision, a woman is at risk for breast cancer if any one or more of the following is true:
    - a. The woman has a personal history of breast cancer;
    - b. The woman has a personal history of biopsy-proven benign breast disease; c. The woman's mother, sister, or daughter has or has had breast cancer; or d. The woman has not given birth prior to the age of 30;
  - (2) One baseline mammogram for any woman 35 through 39 years of age, inclusive;
  - (3) A mammogram every other year for any woman 40 through 49 years of age, inclusive, or more frequently upon recommendation of a physician; and
  - (4) A mammogram every year for any woman 50 years of age or older.
- (d) Reimbursement for a mammogram authorized under this section shall be made only if the facility in which the mammogram was performed meets mammography accreditation standards established by the North Carolina Medical Care Commission.
- (e) Coverage for the screening for the early detection of cervical cancer shall be in accordance with the most recently published American Cancer Society guidelines or guidelines adopted by the North Carolina Advisory Committee on Cancer Coordination and Control. Coverage shall include the examination, the laboratory fee, and the physician's interpretation of the laboratory results. Reimbursements for laboratory fees shall be made only if the laboratory meets accreditation standards adopted by the North Carolina Medical Care Commission.

#### **NC ST § 58-67-76. Coverage for mammograms and cervical cancer screening**

- (a) Every health care plan written by a health maintenance organization and in force, issued, renewed, or amended on or after January 1, 1992, that is subject to this Article, shall provide coverage for examinations and laboratory tests for the screening for the early detection of cervical cancer and for low-dose screening mammography. The same deductibles, coinsurance, and other limitations as apply to similar services covered under the plan shall apply to coverage for examinations and laboratory tests for the screening for the early detection of cervical cancer and low-dose screening mammography.

- (a1) As used in this section, “examinations and laboratory tests for the screening for the early detection of cervical cancer” means conventional PAP smear screening, liquid-based cytology, and human papilloma virus (HPV) detection methods for women with equivocal findings on cervical cytologic analysis that are subject to the approval of and have been approved by the United States Food and Drug Administration.
- (b) As used in this section, “low-dose screening mammography” means a radiologic procedure for the early detection of breast cancer provided to an asymptomatic woman using equipment dedicated specifically for mammography, including a physician's interpretation of the results of the procedure.
- (c) Coverage for low-dose screening mammography shall be provided as follows:
- (1) One or more mammograms a year, as recommended by a physician, for any woman who is determined to be at risk for breast cancer. For purposes of this subdivision, a woman is at risk for breast cancer if any one or more of the following is true:
    - a. The woman has a personal history of breast cancer;
    - b. The woman has a personal history of biopsy-proven benign breast disease;
    - c. The woman's mother, sister, or daughter has or has had breast cancer; or
    - d. The woman has not given birth prior to the age of 30;
  - (2) One baseline mammogram for any woman 35 through 39 years of age, inclusive;
  - (3) A mammogram every other year for any woman 40 through 49 years of age, inclusive, or more frequently upon recommendation of a physician; and
  - (4) A mammogram every year for any woman 50 years of age or older.
- (d) Reimbursement for a mammogram authorized under this section shall be made only if the facility in which the mammogram was performed meets mammography accreditation standards established by the North Carolina Medical Care Commission.
- (e) Coverage for the screening for the early detection of cervical cancer shall be in accordance with the most recently published American Cancer Society guidelines or guidelines adopted by the North Carolina Advisory Committee on Cancer Coordination and Control. Coverage shall include the examination, the laboratory fee, and the physician's interpretation of the laboratory results. Reimbursements for laboratory fees shall be made only if the laboratory meets accreditation standards adopted by the North Carolina Medical Care Commission.

## **NORTH DAKOTA**

### **ND ST 14-10-17. Minors--Treatment for sexually transmitted...**

Any person of the age of fourteen years or older may contract for and receive examination, care, or treatment for sexually transmitted disease, alcoholism, or drug abuse without permission, authority, or consent of a parent or guardian.

### **ND ST 19-02.1-19. False advertising**

1. An advertisement of a food, drug, device, or cosmetic is false if it is false or misleading in any particular.
2. For the purpose of this chapter, the advertisement of a drug or device representing it to have any effect in albuminuria, appendicitis, arteriosclerosis, blood poison, bone disease, Bright's disease, cancer, carbuncles, cholecystitis, diabetes, diphtheria, dropsy, erysipelas, gallstones, heart and vascular diseases, high blood pressure, mastoiditis, measles, meningitis, mumps, nephritis, otitis media, paralysis, pneumonia, poliomyelitis (infantile paralysis), prostate gland disorders, pyelitis, scarlet fever, sexual impotence, sexually transmitted disease, sinus infection, smallpox, tuberculosis, tumors, typhoid, or uremia is also false, except that no advertisement not in violation of subsection 1 is false under this subsection if it is disseminated only to members of the medical, dental, pharmaceutical, or veterinary professions, or appears only in the scientific periodicals of these professions, or is disseminated only for the purpose of public health education by persons not commercially interested, directly or indirectly, in the sale of such drugs or devices; provided, that whenever the department determines that an advance in medical science has made any type of self-medication safe as to any of the diseases named above, the department by rule shall authorize the advertisement of drugs having curative or therapeutic effect for such disease, subject to such conditions and restrictions as the department may deem necessary in the interests of public health; and provided, further, that this subsection may not be construed as indicating that self-medication for diseases other than those named herein is safe or efficacious.

### **ND ST 23-01-33. Human papilloma virus--Information**

The state department of health shall educate the public about the human papilloma virus and the availability of a human papilloma virus vaccine; promote immunization against the human papilloma virus; and distribute informational material regarding the human papilloma virus and the human papilloma virus vaccine. The department shall distribute the informational material through relevant department programs and divisions, including breast and cervical cancer control programs; immunization programs; family planning programs; and human immunodeficiency virus and sexually transmitted disease programs. Informational materials distributed must include the recommendations of the advisory committee on immunization practices of the federal centers for disease control and prevention; contain information relevant to the target populations of each of the participating programs and divisions distributing the informational material; and contain information regarding the availability of the vaccine through the vaccines for children program operated by the department under 42 U.S.C. 1396s, and the medical assistance program.

### **ND ST 23-07-03. Report of cases of sexually transmitted disease**

The superintendent of a hospital, dispensary, or charitable or penal institution, in which there is a case of sexually transmitted disease, or the superintendent's designee, shall report such case to the nearest health

officer having jurisdiction. The report must be made in the form and manner directed by the state department of health.

#### **ND ST 23-07-07. Sexually transmitted diseases--Additional powers and...**

The state health officer, and each district, county, and city health officer within the officer's jurisdiction, when necessary for the protection of public health, shall:

1. Make examination of any person reasonably suspected of being infected with a sexually transmitted disease and detain that person until the results of the examination are known.
2. Require any person infected with a sexually transmitted disease to report for treatment to a reputable physician and to continue such treatment until cured or, if incurable, continue indefinitely such treatment as recommended by the physician.
3. Investigate sources of infection of sexually transmitted diseases.
4. Cooperate with the proper officials whose duty it is to enforce laws directed against prostitution, and otherwise to use every proper means for the repression of prostitution, including providing proper officials with all relevant information available concerning individuals who are infected with the human immunodeficiency virus and who are engaged in prostitution.

#### **ND ST 23-07-08. Persons in prison examined and treated for sexually...**

Every person convicted of a crime who is imprisoned fifteen days or more in a state, county, or city prison must be examined for sexually transmitted disease and, if infected, must be treated therefor by the health officer within whose jurisdiction the person is imprisoned.

#### **ND ST 23-07-09. Sexually transmitted diseases--Persons isolated in...**

The prison authorities of any state, county, or city prison shall make available to the health officers such portion of the prison as may be necessary for a clinic or hospital wherein the following persons may be isolated and treated:

1. Persons who are imprisoned in the prison and who are infected with a sexually transmitted disease.
2. Persons who are suffering with a sexually transmitted disease at the time of the expiration of their term of imprisonment.
3. Persons isolated or quarantined by the health officer when no other suitable place for isolation or quarantine is available.

In lieu of such isolation, any of such persons, in the discretion of the health officer, may be required to report for treatment to a licensed physician. This section may not be construed to interfere with the service of any sentence imposed by a court as punishment for the commission of crime.

#### **ND ST 23-07-21. Penalties**

Except as otherwise provided in this section, a person is guilty of an infraction:

1. Who violates or fails to obey any provision of this chapter, any lawful rule made by the state department of health, or any order issued by any state, district, county, or municipal health officer;

2. Who violates any quarantine law or regulation, or who leaves a quarantined area without being discharged; or
3. Who, knowing that the person is infected with a sexually transmitted disease, willfully exposes another person to infection.

Any person required to make a report under section 23-07-02.1 who releases or makes public confidential information or otherwise breaches the confidentiality requirements of section 23-07-02.2 is guilty of a class C felony.

### **ND ST 23-07.7-01. Court-ordered sexual offense medical testing**

1. The court may order any defendant charged with a sex offense under chapter 12.1-20 and any alleged juvenile offender with respect to whom a petition has been filed in a juvenile court alleging violation of chapter 12.1-20 to undergo medical testing to determine whether the defendant or alleged juvenile offender has any sexually transmitted diseases, including a test for infection with the human immunodeficiency virus or any other identified positive agent of acquired immunodeficiency syndrome. The court may not order a defendant charged with violating section 12.1-20-12.1 or 12.1-20-13 or an alleged juvenile offender with respect to whom a petition has been filed in a juvenile court alleging violation of section 12.1-20-12.1 or 12.1-20-13 to undergo the testing authorized by this section. The court may order the testing only if the court receives a petition from the alleged victim of the offense or from the prosecuting attorney if the alleged victim has made a written request to the prosecuting attorney to petition the court for an order authorized under this section. On receipt of a petition, the court shall determine, without a hearing, if probable cause exists to believe that a possible transfer of a sexually transmitted disease or human immunodeficiency virus took place between the defendant or alleged juvenile offender and the alleged victim. If the court determines probable cause exists, the court shall order the defendant or alleged juvenile offender to submit to testing and that a copy of the test results be released to the defendant's or alleged juvenile offender's physician and each requesting victim's physician.
2. If a defendant is charged with a sexual offense under chapter 12.1-20 in which the alleged victim is compelled by force or threat to engage in sexual activity or sexual contact, the prosecuting attorney shall inform the alleged victim that the alleged victim may request that a test for infection with the human immunodeficiency virus or any other identified agent of acquired immunodeficiency syndrome be administered to the defendant. If the alleged victim requests that the test be administered, the prosecuting attorney shall notify the court. The court shall order that the test be administered within forty-eight hours after the date the complaint or information is filed or after the defendant's initial appearance.
3. If a test is ordered under subsection 1 or 2, the physicians for the defendant or alleged juvenile offender and requesting alleged victim must be specifically named in the court order, and the court order must be served on the physicians before any test.

### **ND ST 23-07.7-02. Testing procedures--Results of test--Penalty**

1. If testing is ordered by a court under section 23-07.7-01, only a health care provider, blood bank, blood center, or plasma center may obtain a specimen of bodily fluids or tissues for the purpose of testing.

2. The court shall order that the specimen be transmitted to a licensed medical laboratory and that tests be conducted for medically accepted indications of exposure to or infection by acquired immunodeficiency syndrome virus, acquired immunodeficiency syndrome-related conditions, and sexually transmitted diseases for which medically approved testing is readily and economically available as determined by the court.
3. The laboratory shall send a copy of the test results to the physicians designated in the court order, who shall then release the test results to the defendant or alleged juvenile offender and each requesting victim as designated in the court order. The court order must be served on the physicians before any test. The laboratory also shall send a copy of test results that indicate exposure to or infection by acquired immunodeficiency syndrome virus, acquired immunodeficiency syndrome-related conditions, or other sexually transmitted diseases to the state department of health.
4. Every copy of the test results must include the following disclaimer:

The testing was conducted in a medically approved manner, but tests cannot determine exposure to or infection by acquired immunodeficiency syndrome or other sexually transmitted diseases with absolute accuracy. Anyone receiving this test result should continue to monitor their own health and should consult a physician as appropriate.
5. The court shall order all persons, other than the test subject, who receive test results pursuant to section 23-07.7-01, to maintain the confidentiality of personal identifying data relating to the test results except for disclosure that may be necessary to obtain medical or psychological care or advice. A person who intentionally discloses the results of any test in violation of this subsection and thereby causes bodily or psychological harm to the subject of the test is guilty of a class C felony.
6. The specimens and the results of tests ordered pursuant to section 23-07.7-01 are not admissible evidence in any civil, criminal, or juvenile proceeding.
7. Any person who performs testing, transmits test results, or discloses information pursuant to this chapter is immune from civil liability for any action undertaken in accordance with this chapter, except for an act or omission that constitutes gross negligence.
8. The county in which the alleged violation of chapter 12.1-20 occurred shall pay for the testing. A defendant who is convicted of the offense shall reimburse the county for the costs of testing.

#### **ND ST 50-24.1-17. Medical assistance for breast or cervical cancer**

The department of human services may provide medical assistance for women screened and found to have breast or cervical cancer in accordance with the federal Breast and Cervical Cancer Prevention and Treatment Act of 2000 [Pub. L. 106-354; 114 Stat. 1381; 42 U.S.C. 1396a et seq.]. The department shall establish an income eligibility limit that may not exceed two hundred percent of the poverty line for payments made under this section. For purposes of this section, poverty line means the official income poverty line as defined by the United States office of management and budget and revised annually in accordance with 42 U.S.C. 9902(2), applicable to a family of the size involved.

## OHIO

### OH ST § 2907.27. Examination and treatment for venereal diseases and HIV

- (A) (1) If a person is charged with a violation of section 2907.02, 2907.03, 2907.04, 2907.24, 2907.241, or 2907.25 of the Revised Code or with a violation of a municipal ordinance that is substantially equivalent to any of those sections, the arresting authorities or a court, upon the request of the prosecutor in the case or upon the request of the victim, shall cause the accused to submit to one or more appropriate tests to determine if the accused is suffering from a venereal disease. The court, upon the request of the prosecutor in the case or upon the request of the victim shall cause the accused to submit to one or more appropriate tests to determine if the accused is suffering from the human immunodeficiency virus (HIV) within forty-eight hours after the date on which the complaint, information, or indictment is filed or within forty-eight hours after the date on which the complaint, information, or indictment is served on the accused, whichever date is later. Nothing in this section shall be construed to prevent the court from ordering at any time during which the complaint, information, or indictment is pending, that the accused submit to one or more appropriate tests to determine if the accused is suffering from a venereal disease or from the human immunodeficiency virus (HIV).
- (2) If the accused is found to be suffering from a venereal disease in an infectious stage, the accused shall be required to submit to medical treatment for that disease. The cost of the medical treatment shall be charged to and paid by the accused who undergoes the treatment. If the accused is indigent, the court shall order the accused to report to a facility operated by a city health district or a general health district for treatment. If the accused is convicted of or pleads guilty to the offense with which the accused is charged and is placed under a community control sanction, a condition of community control shall be that the offender submit to and faithfully follow a course of medical treatment for the venereal disease. If the offender does not seek the required medical treatment, the court may revoke the offender's community control and order the offender to undergo medical treatment during the period of the offender's incarceration and to pay the cost of that treatment.
- (B) (1)(a) If a person is charged with a violation of division (B) of section 2903.11 or of section 2907.02, 2907.03, 2907.04, 2907.05, 2907.12, 2907.24, 2907.241, or 2907.25 of the Revised Code or with a violation of a municipal ordinance that is substantially equivalent to that division or any of those sections, the court, upon the request of the prosecutor in the case, upon the request of the victim, or upon the request of any other person whom the court reasonably believes had contact with the accused in circumstances related to the violation that could have resulted in the transmission to that person the human immunodeficiency virus, shall cause the accused to submit to one or more tests designated by the director of health under section 3701.241 of the Revised Code to determine if the accused is infected with HIV. The court, upon the request of the prosecutor in the case, upon the request of the victim with the agreement of the prosecutor, or upon the request of any other person with the agreement of the prosecutor, may cause an accused who is charged with a violation of any other section of the Revised Code or with a violation of any other municipal ordinance to submit to one or more tests so designated by the director of health if the circumstances of the violation indicate probable cause to believe that the accused, if the accused is infected with HIV, might have transmitted HIV to any of the following persons in committing the violation:
- (i) In relation to a request made by the prosecuting attorney, to the victim or to any other person;
  - (ii) In relation to a request made by the victim, to the victim making the request;
  - (iii) In relation to a request made by any other person, to the person making the request.

(b) The results of a test performed under division (B)(1)(a) of this section shall be communicated in confidence to the court, and the court shall inform the accused of the result. The court shall inform the victim that the test was performed and that the victim has a right to receive the results on request. If the test was performed upon the request of a person other than the prosecutor in the case and other than the victim, the court shall inform the person who made the request that the test was performed and that the person has a right to receive the results upon request. Additionally, regardless of who made the request that was the basis of the test being performed, if the court reasonably believes that, in circumstances related to the violation, a person other than the victim had contact with the accused that could have resulted in the transmission of HIV to that person, the court may inform that person that the test was performed and that the person has a right to receive the results of the test on request. If the accused tests positive for HIV, the test results shall be reported to the department of health in accordance with section 3701.24 of the Revised Code and to the sheriff, head of the state correctional institution, or other person in charge of any jail or prison in which the accused is incarcerated. If the accused tests positive for HIV and the accused was charged with, and was convicted of or pleaded guilty to, a violation of section 2907.24, 2907.241, or 2907.25 of the Revised Code or a violation of a municipal ordinance that is substantially equivalent to any of those sections, the test results also shall be reported to the law enforcement agency that arrested the accused, and the law enforcement agency may use the test results as the basis for any future charge of a violation of division (B) of any of those sections or a violation of a municipal ordinance that is substantially equivalent to division (B) of any of those sections. No other disclosure of the test results or the fact that a test was performed shall be made, other than as evidence in a grand jury proceeding or as evidence in a judicial proceeding in accordance with the Rules of Evidence. If the test result is negative, and the charge has not been dismissed or if the accused has been convicted of the charge or a different offense arising out of the same circumstances as the offense charged, the court shall order that the test be repeated not earlier than three months nor later than six months after the original test.

- (2) If an accused who is free on bond refuses to submit to a test ordered by the court pursuant to division (B)(1) of this section, the court may order that the accused's bond be revoked and that the accused be incarcerated until the test is performed. If an accused who is incarcerated refuses to submit to a test ordered by the court pursuant to division (B)(1) of this section, the court shall order the person in charge of the jail or prison in which the accused is incarcerated to take any action necessary to facilitate the performance of the test, including the forcible restraint of the accused for the purpose of drawing blood to be used in the test.
- (3) A state agency, a political subdivision of the state, or an employee of a state agency or of a political subdivision of the state is immune from liability in a civil action to recover damages for injury, death, or loss to person or property allegedly caused by any act or omission in connection with the performance of the duties required under division (B)(2) of this section unless the acts or omissions are with malicious purpose, in bad faith, or in a wanton or reckless manner.

(C) As used in this section:

- (1) "Community control sanction" has the same meaning as in section 2929.01 of the Revised Code.
- (2) "HIV" means the human immunodeficiency virus.

## OKLAHOMA

### OK ST T. 63 § 1-236. Definitions

A. As used in this act:

1. "Committee" means the Joint Legislative Committee for Review of Coordination of Efforts for Prevention of Adolescent Pregnancy and Sexually Transmitted Diseases;
2. "Coordinating Council" means the Interagency Coordinating Council for Coordination of Efforts for Prevention of Adolescent Pregnancy and Sexually Transmitted Diseases; and
3. "State Plan" means the State Plan for Coordination of Efforts for Prevention of Adolescent Pregnancy and Sexually Transmitted Diseases.

B. The purpose of this act is to provide for a comprehensive, coordinated, multidisciplinary and interagency effort to reduce the rate of adolescent pregnancy and sexually transmitted diseases within the State of Oklahoma.

### OK ST T. 63 § 1-237. Interagency Coordinating Council for Coordination of...

1. The Governor shall appoint an Interagency Coordinating Council for Coordination of Efforts for Prevention of Adolescent Pregnancy and Sexually Transmitted Diseases which shall be composed of thirty-one (31) members as follows:

a. the chief executive officers or their designees of the:

- (1) Commission on Children and Youth,
- (2) State Department of Education,
- (3) Oklahoma Department of Career and Technology Education,
- (4) Department of Human Services,
- (5) Department of Mental Health and Substance Abuse Services,
- (6) Office of Volunteerism,
- (7) State Department of Health, and
- (8) College of Public Health,

b. the Executive Director of the Office of Juvenile Affairs or designee,

c. two representatives from the Maternal and Infant Health Division, two representatives from the HIV/STD Division, two representatives from the Child Health and Guidance Division of the State Department of Health,

d. a superintendent of an independent school district,

e. a representative of a statewide association of medical doctors,

f. a representative of a statewide association of osteopathic physicians,

g. a representative of a statewide association of parents and teachers,

h. a representative of a statewide association of classroom teachers,

i. a representative of a statewide association of school counselors,

j. a principal of an alternative education program,

k. a representative of business or industry,

l. a representative of a statewide association formed for the purpose of developing leadership skills,

m. a representative of an ecumenical association,

n. two parents of ten- to twenty-year-old children,

- o. a teenage girl,
- p. a representative of a nonprofit statewide child advocacy organization,
- q. the Governor or the Governor's designee, who shall chair the Coordinating Council.

Legal assistance shall be provided by the Office of the Attorney General. Staff support and assistance shall be provided by the State Department of Health as the legal agency.

2. The Coordinating Council shall:

- a. on or before December 1, 1994, complete the State Plan pursuant to the provisions of Section 1-238 of this title and present it to the Committee for approval, and
- b. after approval of the State Plan, monitor implementation of the plan, evaluate the plan, meet with the Committee concerning revisions whenever requested to do so, and on or before November 1, 1995, and November 1 of each subsequent year, submit a report on the implementation and evaluation of the State Plan to the Governor, the President Pro Tempore of the Senate and the Speaker of the House of Representatives.

**OK ST T. 63 § 1-517. Definitions**

For the purposes of the following sections of this article:

- (a) The term “sexually transmitted infection (STI)” means syphilis, gonorrhea, chlamydia, human immunodeficiency virus (HIV)/acquired immune deficiency syndrome (AIDS), and any other disease which may be transmitted from any person to any other person through or by means of any form of sexual contact.
- (b) The term “infected person” means any individual, either sex, who may be carrying the organism or is afflicted with any STI.
- (c) The term “dealer” means any person who may handle, for sale, any medicinal remedies or supposed remedies for an STI, and the agents, clerks and employees of any such person; and any person who may profess or claim to treat or cure, by the use of medicine or otherwise, any sexually transmitted infection (STI), and the agents, clerks and employees.
- (d) The term “physician” shall include reputable physicians who have complied with all the requirements of law regulating the practice of their respective schools of medicine, and duly licensed by such law to practice medicine in their respective schools, or surgery, or both, and no other person.

**OK ST T. 63 § 1-524. Prisoners--Examinations--Testing certain persons for a...**

- A. The keeper of any prison or penal institution in this state shall cause to be examined every person confined in such prison or penal institution, to determine whether such person is an infected person.
- B. Any licensed physician may examine persons who are arrested by lawful warrant for prostitution, or other sex crimes not specified in Section 1-524.1 of this title, for the purpose of determining if they are infected with a sexually transmitted infection (STI) or a communicable disease including, but not limited to, the human immunodeficiency virus (HIV). For purposes of expediting such examination, in counties with a

population of greater than four hundred thousand (400,000), the county sheriff or the chief of police of any municipality with a population of greater than two hundred thousand (200,000) that is located within such county and that has a municipal court of record shall notify the city-county health department serving the county of any person who has been arrested by county or city officers for prostitution. Any such examination shall be made subsequent to arrest and if the examination is for the human immunodeficiency virus, upon order of the court issued at the initial appearance of the arrested person. Every person shall submit to the examination and shall permit specimens to be taken for laboratory examinations. Such person may be detained until the results of the examination are known. The examination shall be made by a licensed physician. A determination as to whether or not the person is infected shall not be based on any prior examination. Any person found to be infected with a sexually transmitted infection (STI) shall be treated by the State Commissioner of Health or local health officer, or a physician of such person's own choice, until such person is noninfectious or dismissed by the Commissioner or local health officer or physician. In the event a person infected with a sexually transmitted infection (STI) refuses or fails to submit to treatment, then such person may be quarantined for the purpose of treatment, and a report thereof shall be made to the Commissioner.

- C. For purposes of this section, the term "initial appearance" shall refer to the first court appearance of an individual, in person or by closed circuit television, before a magistrate on a presentment, indictment or preliminary information on a felony offense.

#### **OK ST T. 63 § 1-524.1. Examination of certain arrested persons for a...**

- A. A licensed physician shall examine persons who are arrested by lawful warrant for the offense of first or second degree rape, forcible sodomy or the intentional infection or attempt to intentionally infect a person with the human immunodeficiency virus for the purpose of determining if the person is infected with a sexually transmitted infection (STI), including, but not limited to, the human immunodeficiency virus (HIV). For purposes of expediting such examination, in counties with a population of greater than four hundred thousand (400,000), the county sheriff or the chief of police of any municipality with a population of greater than two hundred thousand (200,000) that is located within such county and that has a municipal court of record shall notify the city-county health department serving the county of any person who has been arrested by county or city officers for such offense. Any such examination shall be made subsequent to arrest as provided in this section. Every person shall submit to the examination and shall permit specimens to be taken for laboratory examinations. Such person may be detained until the results of the examination are known. A determination as to whether or not the person is infected shall not be based on any prior examination. Any person found to be infected with a sexually transmitted infection (STI) shall be treated by a physician of such person's own choice, until such person is noninfectious or dismissed by the Commissioner or local health officer or physician. The costs of such treatment shall be the responsibility of the person who is examined and tested and the court shall order the person to pay such costs. In the event a person infected with a sexually transmitted infection (STI) refuses or fails to submit to treatment, then such person may be quarantined for the purpose of treatment, and a report thereof shall be made to the Commissioner.
- B. The district attorney shall file a motion for a court-ordered examination and testing of the person arrested for the offenses specified in subsection A of this section at the time the criminal charges are filed or the court may provide a standing order for such examination and testing which shall issue automatically at the time of arrest for the offenses specified in subsection A of this section.

- C. Any peace officer in this state upon the arrest of a person within six (6) hours or less of the actual offense of first or second degree rape, forcible sodomy or intentional infection or attempt to intentionally infect a person with the human immunodeficiency virus shall immediately deliver and submit the person for a rapid test for human immunodeficiency virus (HIV) without a court order, if a rapid test site is available. If the rapid HIV test results are positive the physician examining the victim of such offense shall be immediately notified and the physician shall immediately provide the victim with preventive treatment, if the victim can be treated within the medically proscribed period for preventive measures.
- D. The examination and testing required by this section shall not be for evidentiary purposes and shall be expedited and conducted solely to screen for and identify the need for the victim's treatment due to potential exposure to sexually transmitted infections (STIs). A confirmation examination and test may be conducted following any examination or test yielding a positive result that is not conclusive of the presence of the human immunodeficiency virus (HIV) or other sexually transmitted infection (STI).
- E. The court shall include the following provisions in its order and shall not include the name or address of the alleged victim:
1. A list of specific examinations and tests, including, but not limited to: blood tests for human immunodeficiency virus (HIV), hepatitis B, hepatitis C, syphilis, gonorrhea, chlamydia, and visual examinations for evidence of genital herpes and genital warts for which examinations and tests are available;
  2. A provision requiring the physician, clinic or hospital which provides the examination and testing to immediately notify the district attorney's office, through the Victim Witness Coordinator, when the test and examination results have been completed;
  3. A provision requiring copies of the examination report and test results be forwarded by the physician, clinic or hospital that conducted such examination and tests to the designated physician or counseling site as made known to the Victim Witness Coordinator by the victim, or if not specified by the victim then copies of the reports and results shall be forwarded to the Victim Witness Coordinator. Results of examinations and tests shall be forwarded within three (3) days of completion of the examination or testing;
  4. A provision that the victim be notified within three (3) days of the receipt of the examination report and test results by the designated physician or counseling site as designated by the victim or the Victim Witness Coordinator, if no designation has been made by the victim;
  5. A provision directing the offender and victim to be treated for infection as indicated in any positive examination and test result; and
  6. A provision directing the facility having custody of the arrested person to be responsible for the costs of examination and tests; provided, however, that the court may order reimbursement of such costs at the time of sentencing.
- F. Upon notification that the results of the examination and tests are completed, the Victim Witness Coordinator shall instruct the physician, clinical laboratory or hospital that completed such results to forward copies of the results according to the victim's designation or, if no designation has been made, forward copies to the Victim Witness Coordinator's office. The Victim Witness Coordinator shall notify the victim's designated professional that the results are being forwarded and instruct the victim to set a time to receive the results in person.
- G. When the examination and test results indicate infection of any sexually transmitted infection (STI), the victim shall be treated by the State Commissioner of Health or local health officer, or a physician of the

victim's own choice, until noninfectious or dismissed by the Commissioner, local health officer or physician.

- H. All examinations and testing shall be performed by a licensed physician and/or clinical laboratory or hospital. The test forms shall include the words "Sex Crime" to expedite handling and shall include a criminal case number, if known.
- I. If the arrested person refuses to be examined and tested upon arrest, the court shall issue an order for such examination and test at the initial appearance of the person arrested.
- J. The cost of examination and testing authorized by this section shall be the responsibility of the facility having custody of the person at the time of arrest. The court shall order the defendant to reimburse such facility at the time of sentencing for all actual costs associated with examination and testing required by this section. No cost of any kind shall be incurred by any victim of such crimes for testing, obtaining the results of tests, or for treatment required by a victim due to a positive result for a test for a sexually transmitted infection (STI) resulting from an offense specified in this section.
- K. For purposes of this section, the term "initial appearance" shall refer to the first court appearance of an individual, in person or by closed circuit television, before a magistrate on a presentment, indictment or preliminary information on a felony offense.

#### **OK ST T. 63 § 1-525. Prescriptions and records--Exposure**

- A. Except as otherwise provided by law, the prescription and records required by the foregoing provisions to be filed and kept shall not be exposed to any person other than the State Commissioner of Health or local health officer, or when properly ordered by a court of competent jurisdiction to be used as evidence in such court, and no information whatever shall be given to any person concerning any infected person except to appropriate persons for use in the proper courts of this state. Provided, that records of diagnosis and treatment may be transmitted to physicians and to health authorities in this and other states upon written request of the person affected. Provided further, results of examinations conducted on persons arrested by lawful warrant for the offense of first or second degree rape, forcible sodomy, or intentional infection or attempted infection of a person with the human immunodeficiency virus, shall be provided to the alleged victim of the crime upon the request of the victim, the parent of the victim if the victim is a minor, or upon request of the legal guardian or custodian of the victim. The name of the arrested and examined person shall not be disclosed on the transmitted record. The State Department of Health shall provide to the victims the positive test results. The Department shall provide free testing to the alleged victim for any sexually transmitted infection (STI) or communicable disease for which the arrestee tests positive, as indicated in the transmitted record of diagnosis. Such testing shall be accompanied with pretest and post-test counseling. Such counseling shall include the provision of information to the victim or the parent, legal guardian or custodian of the victim concerning the venereal or communicable disease indicated in the transmitted record and the location of public and private facilities in the vicinity offering tests and counseling for persons who have the sexually transmitted infection (STI) or communicable disease.
- B. The State Board of Health shall promulgate rules and regulations for the examination authorized or required by Section 1-524 of this title and for the release of records containing results of examinations authorized by subsection A of this section. The rules and regulations shall establish procedural guidelines

which respect the rights of the person arrested for the alleged offense and the victim of the alleged offense.

### **OK ST T. 63 § 1-526. Rules and regulations**

The State Board of Health shall make all rules and regulations for the prevention and cure, and to prevent the spread, of sexually transmitted infections (STIs), which it deems necessary for the control of STIs.

### **OK ST T. 63 § 1-527. Reports of a sexually transmitted infection**

Any physician who makes a diagnosis or treats a case of a sexually transmitted infection (STI), and every superintendent or manager of a hospital, dispensary or charitable or penal institution in which there is a case of an STI, shall report such case immediately, in writing, to the State Commissioner of Health, or the local health officer, in the same manner as other communicable diseases are reported, in forms to be prescribed and furnished by the Commissioner.

### **OK ST T. 63 § 1-528. Sexually transmitted infection...**

- (a) It shall be the duty of every physician who examines or treats a person having a sexually transmitted infection (STI) to instruct that person in measures preventing the spread of such disease and of the necessity for treatment until cured.
- (b) If an attending physician or other person knows or has good reason to suspect that a person having a sexually transmitted infection (STI) is so conducting as to expose other persons to infection, or is about to so conduct, the person shall notify the local health officer of the name and address of the diseased person and the essential facts in the case.

### **OK ST T. 63 § 1-529. Investigations by health officers**

All local health officers shall use every available means to ascertain the existence of, and to investigate all cases of, sexually transmitted infection (STI) within their respective jurisdictions, and to ascertain the sources of such infections; and shall make examination of any person reported two or more times as a suspected source of an STI.

### **OK ST T. 63 § 1-530. Protection against spread of infection**

- (a). Upon receipt of a report of a case of sexually transmitted infection (STI), the local health officer shall institute measures, which may include quarantine, for protection of other persons from infection by a person infected with an STI.
- (b). The State Board of Health shall adopt rules and regulations for the quarantine of persons infected with a sexually transmitted infection (STI), to prevent the spread of sexually transmitted infection (STI).
- (c). Boards of county commissioners and governing boards of all incorporated towns and cities may provide suitable places for the detention of persons who may be subject to quarantine and who should be segregated.

### **OK ST T. 63 § 1-531. Certificates of freedom from infection**

It shall be unlawful for physicians, health officers, and other persons to issue certificates of freedom from sexually transmitted infection (STI), except as authorized by law and the rules and regulations of the State Board of Health.

### **OK ST T. 63 § 1-532.1. Minor's consent to examination and treatment for...**

Any person, regardless of age, has the capacity to consent to examination and treatment by a licensed physician for any sexually transmitted infection (STI).

### **OK ST T. 21 § 1192. Spread of infectious diseases**

Any person who shall inoculate himself or any other person or shall suffer himself to be inoculated with smallpox, syphilis or gonorrhea and shall spread or cause to be spread to any other persons with intent to or recklessly be responsible for the spread of or prevalence of such infectious disease, shall be deemed a felon, and, upon conviction thereof, guilty of a felony and shall be punished by imprisonment in the State Penitentiary for not more than five (5) years nor less than two (2) years.

## OREGON

### OR ST § 147.395. Definitions

As used in ORS 147.397:

- (1) “Complete medical assessment” means an assessment that consists of:
  - (a) A medical examination;
  - (b) The collection of forensic evidence using an evidence collection kit approved by the Department of State Police; and
  - (c) The offering and, if requested, provision of emergency contraception, sexually transmitted disease prevention and, for a victim who is 17 years of age or younger, prescriptions for emergency contraception.
- (2) “Medical assessment” means a complete or partial medical assessment. (3) “Partial medical assessment” means an assessment that consists of:
  - (a) A medical examination; and
  - (b) The offering and, if requested, provision of emergency contraception, sexually transmitted disease prevention and, for a victim who is 17 years of age or younger, prescriptions for emergency contraception.

### OR ST § 414.153. Payment for point of contact services

In order to make advantageous use of the system of public health care and services available through county health departments and other publicly supported programs and to insure access to public health care and services through contract under ORS chapter 414, the state shall:

- (1) Unless cause can be shown why such an agreement is not feasible, require and approve agreements between coordinated care organizations and publicly funded providers for authorization of payment for point of contact services in the following categories:
  - (a) Immunizations;
  - (b) Sexually transmitted diseases; and
  - (c) (c) Other communicable diseases;
- (2) Allow enrollees in coordinated care organizations to receive from fee-for-service providers:
  - (a) Family planning services;
  - (b) Human immunodeficiency virus and acquired immune deficiency syndrome prevention services; and
  - (c) Maternity case management if the Oregon Health Authority determines that a coordinated care organization cannot adequately provide the services;
- (3) Encourage and approve agreements between coordinated care organizations and publicly funded providers for authorization of and payment for services in the following categories:
  - (a) Maternity case management;
  - (b) Well-child care;

- (c) Prenatal care;
  - (d) School-based clinics;
  - (e) Health care and services for children provided through schools and Head Start programs; and
  - (f) Screening services to provide early detection of health care problems among low income women and children, migrant workers and other special population groups; and
- (4) Recognize the responsibility of counties under ORS 430.620 to operate community mental health programs by requiring a written agreement between each coordinated care organization and the local mental health authority in the area served by the coordinated care organization, unless cause can be shown why such an agreement is not feasible under criteria established by the Oregon Health Authority. The written agreements:
- (a) May not limit the ability of coordinated care organizations to contract with other public or private providers for mental health or chemical dependency services;
  - (b) Must include agreed upon outcomes; and
  - (c) Must describe the authorization and payments necessary to maintain the mental health safety net system and to maintain the efficient and effective management of the following responsibilities of local mental health authorities, with respect to the service needs of members of the coordinated care organization:
    - (A) Management of children and adults at risk of entering or who are transitioning from the Oregon State Hospital or from residential care;
    - (B) Care coordination of residential services and supports for adults and children;
    - (C) Management of the mental health crisis system;
    - (D) Management of community-based specialized services including but not limited to supported employment and education, early psychosis programs, assertive community treatment or other types of intensive case management programs and home-based services for children; and
    - (E) Management of specialized services to reduce recidivism of individuals with mental illness in the criminal justice system.

### **Ch. 348, § 1. Human papillomavirus; addendum to Oregon...**

<Codification and revision of text subject to determination by the Oregon Office of the Legislative Counsel.>

- (1) In an effort to reduce the burden of the human papillomavirus and related cancers in this state, the Oregon Health Authority shall prepare a human papillomavirus and comprehensive related cancer control plan as an addendum to the Oregon Comprehensive Cancer Plan that assesses the following:
  - (a) Existing disease prevention or surveillance policies and programs;
  - (b) Existing disease prevention or surveillance measures;
  - (c) Public and health care provider awareness;
  - (d) Gaps in knowledge related to the human papillomavirus and related cancers; and
  - (e) Opportunities to improve disease prevention and surveillance policies, programs and measures.
- (2) The plan must address, at a minimum, cervical cancer, anogenital cancer, oral cavity cancer and pharyngeal cancer.

- (3) The authority shall submit the plan, along with recommendations for legislation, to the interim committees of the Legislative Assembly related to health on or before September 1, 2014.

## PENNSYLVANIA

### PA ST 35 P.S. § 521.7. Examination and diagnosis of persons suspected of...

Whenever the secretary or a local qualified medical health officer has reasonable grounds to suspect any person of being infected with a venereal disease, tuberculosis or any other communicable disease, or of being a carrier, he shall require the person to undergo a medical examination and any other approved diagnostic procedure, to determine whether or not he is infected with a venereal disease, tuberculosis or any other communicable disease, or is a carrier. In the event that the person refuses to submit to the examination, the secretary or the local qualified medical health officer may (1) cause the person to be quarantined until it is determined that he is not infected with a venereal disease, tuberculosis or any other communicable disease, or of being a carrier, or (2) file a petition in the court of common pleas of the county in which the person is present, which petition shall have appended thereto a statement, under oath, by a physician duly licensed to practice in the Commonwealth, that such person is suspected of being infected with venereal disease, tuberculosis or any other communicable disease, or that such person is suspected of being a carrier. Upon filing of such petition, the court shall, within twenty-four hours after service of a copy thereof upon the respondent, hold a hearing, without a jury, to ascertain whether the person named in the petition has refused to submit to an examination to determine whether he or she is infected with venereal disease, tuberculosis or any other communicable disease, or that such person is a carrier. Upon a finding that the person has refused to submit to such examination and that there was no valid reason for such person so to do, the court shall forthwith order such person to submit to the examination. The certificate of the physician appended to the petition shall be received in evidence and shall constitute prima facie evidence that the person therein named is suspected of being infected with venereal disease, tuberculosis or any other communicable disease, or that such person is a carrier. The examination ordered by the court may be performed by a physician of his own choice at his own expense. The examination shall include physical and laboratory tests performed in a laboratory approved by the secretary, and shall be conducted in accordance with accepted professional practices, and the results thereof shall be reported to the local health board or health department on forms furnished by the Department of Health. Any person refusing to undergo an examination, as herein provided, may be committed by the court to an institution in this Commonwealth determined by the Secretary of Health to be suitable for the care of such cases.

### PA ST 35 P.S. § 521.8. Venereal disease

- (a) Any person taken into custody and charged with any crime involving lewd conduct or a sex offense, or any person to whom the jurisdiction of a juvenile court attaches, may be examined for a venereal disease by a qualified physician appointed by the department or by the local board or department of health or appointed by the court having jurisdiction over the person so charged.
- (b) Any person convicted of a crime or pending trial, who is confined in or committed to any State or local penal institution, reformatory or any other house of correction or detention, may be examined for venereal disease by a qualified physician appointed by the department or by the local board or department of health or by the attending physician of the institution, if any.
- (c) Any such persons noted in paragraph (a) or (b) of this section found, upon such examination, to be infected with any venereal disease shall be given appropriate treatment by duly constituted health authorities or their deputies or by the attending physician of the institution, if any.

## **PA ST 35 P.S. § 521.9. Diagnosis and treatment of venereal disease**

- (a) Except as provided in subsection (b) of this section, the department shall provide or designate adequate facilities for the free diagnosis, including blood and other tests, of venereal disease and for the free treatment of persons infected with venereal disease when necessary for the preservation of the public health.
  
- (b) Upon approval of the department, any local board or department of health may undertake to share the expense of furnishing free diagnosis and free treatment of venereal disease, or the local board or department of health may take over, entirely or in part, the furnishing of free diagnosis and free treatment of venereal disease with or without financial assistance from the department.

## **RHODE ISLAND**

### **RI ST § 23-11-1. Diseases declared contagious--Exposure of another to...**

Sexually transmitted diseases shall include, but not be limited to, syphilis, gonorrhea, chancroid, granuloma inguinale and lymphogranuloma venereum and other diseases that the director of health may by regulation determine to constitute a sexually transmitted disease. Sexually transmitted diseases are declared to be contagious, infectious, communicable, and dangerous to the public health. It shall be unlawful for anyone knowingly, while in the infectious condition with these diseases, or any of them, to expose another person to infection. Any person found guilty of violating the provisions of this section shall be fined not more than one hundred dollars (\$100) or imprisoned for not more than three (3) months.

### **RI ST § 23-11-10. Investigation of suspected cases and sources**

In all suspected cases of sexually transmitted disease, the state department of health is empowered to take appropriate measures to determine whether the person or persons suspected of being infected are suffering from any sexually transmitted disease; and whenever any sexually transmitted disease is found to exist, the state department of health shall, whenever possible, ascertain the sources of the infections. In these investigations, the state department of health is vested with full powers of inspection and examination and treatment as determined by the director of health.

### **RI ST § 23-11-11. Power to examine suspected cases--Right of suspect...**

For the purpose of carrying out the provisions of this chapter, the state department of health is empowered to make examinations of persons reasonably suspected of having sexually transmitted disease; provided, however, that any person so examined shall have the right to have present at that examination, at his or her own expense, a physician selected by him or her. The state department of health shall inform him or her of this right and afford him or her a reasonable opportunity to exercise that right; and at the trial of any person being prosecuted under the provisions of § 23-11-12, the prosecution must prove that he or she was so informed and was afforded that opportunity. Persons under eighteen (18) years of age may give legal consent for examination and treatment for any sexually transmitted disease. For the purposes of this section, physical examination and treatment by a licensed physician or his or her designated representative upon the person of a minor who has given consent shall not constitute an assault or an assault and battery upon the person.

### **RI ST § 23-11-14. Reports by public and private laboratories**

Whenever any public or private laboratory performs a laboratory test for any sexually transmitted disease, the result, if reactive or positive, shall be reported within ten (10) days after the test by the person in charge of the laboratory to the state department of health in the manner and form that may be prescribed by the director of health.

### **RI ST § 23-11-17. Human immunodeficiency virus (HIV) testing**

The physician or health care provider attending any person for a suspected sexually transmitted disease shall offer testing for human immunodeficiency virus (HIV). All testing pursuant to this section shall be as provided for in chapter 23-6.3.

### **RI ST § 23-11-20. Expedited partner therapy**

- (a) Notwithstanding any other provision of law to the contrary, a physician licensed under chapter 37 of title 5, a physician assistant licensed under chapter 54 of title 5 or a certified registered nurse practitioner licensed under chapter 34 of title 5 who is authorized to prescribe and dispense prescription drugs, and who diagnoses a sexually transmitted chlamydia or gonorrhea infection in an individual patient, may prescribe prescription drugs to the patient's sexual partner or partners for the treatment of the sexually transmitted chlamydia or gonorrhea infection without an examination of the sexual partner or partners.
- (b) Neither a licensed physician, licensed physician assistant or certified registered nurse practitioner who, in good faith, prescribes prescription drugs to a patient's sexual partner or partners for the treatment of a sexually transmitted chlamydia or gonorrhea infection in accordance with this section, nor the group or healthcare facility for which they work, shall be subject to civil or criminal liability and shall not be deemed to have engaged in unprofessional conduct.

### **RI ST § 23-11-3. Compulsory treatment of infected persons**

The department of health is empowered to require persons who are in an infectious condition with a sexually transmitted disease to report for treatment to a licensed physician and to continue treatment until cured of his or her infectious condition. Any person suffering from any sexually transmitted disease while in the infectious and contagious stage of that disease who refuses to report for treatment, or who refuses to continue treatment, shall be isolated and treated until that person has been pronounced by a licensed physician to be noninfectious and no longer a danger to the public health.

### **RI ST § 23-11-5. Reports of cases by public and private institutions**

The superintendent or other officer or other person in charge of public or private institutions, such as hospitals, or other licensed health care facilities, dispensaries, clinics, homes, asylums, and charitable and correctional institutions, shall promptly report the identity of every patient suffering from a sexually transmitted disease in any form in a manner that may be prescribed by the director of the department of health.

### **RI ST § 23-11-8. Blood test of pregnant women**

It shall be the duty of every physician engaged in prenatal attendance upon a pregnant woman to obtain a blood specimen of that pregnant woman within thirty (30) days after the first professional visit. That blood specimen shall be submitted to the laboratory of the state department of health, or to a laboratory approved by the department, for the performance of a Wassermann or other standard laboratory blood test for syphilis. Any violation of the provisions of this section shall constitute a misdemeanor and that physician shall be fined not less than ten dollars (\$10.00) nor more than one hundred dollars (\$100) for each offense.

### **RI ST § 23-5-9. Upon death--Report of infectious disease**

- (a) As used in this section, "infectious or communicable disease" includes the following:
  - (1) Infectious hepatitis;
  - (2) Tuberculosis;

- (3) Rabies;
- (4) Tularemia;
- (5) Herpes simplex;
- (6) Acquired immune deficiency syndrome; (7) Viral hemorrhagic fever;
- (7) Gonorrhea;
- (8) Syphilis;
- (9) Burkett's lymphoma; and
- (10) Kaposi's sarcoma.

- (b) Notwithstanding the provisions of §§ 40.1-5-26 and 5-37.3-4, when a person who has been diagnosed as having an infectious or communicable disease dies in a hospital or other health care facility, the attending physician or other responsible officer shall prepare a written notification describing the disease to accompany the body when the body is picked up for disposition.
- (c) Notwithstanding the provisions of §§ 40.1-5-26 and 5-37.3-4, when a person dies outside of a hospital or health care facility and without an attending physician, any family member or person making arrangements for the disposition of the dead body who knows that the dead person has been diagnosed as having an infectious or communicable disease at the time of death shall make known that disposition.
- (d) Notwithstanding the provisions of §§ 40.1-5-26 and 5-37.3-4, any person who picks up or transports a dead body for disposition and who has been notified pursuant to subdivision (2) or (3) of this section shall present a notification accompanying the dead body to any embalmer, funeral director, or other person taking possession of the dead body.
- (e) Information regarding a deceased's infectious or communicable disease contained in a notification required under this section shall be privileged and confidential and may be disclosed only if the disclosure is required under state or federal laws.
- (f) Any person having duties imposed upon him or her under subsection (b), (c), or (d) of this section who knowingly refuses or omits to perform those duties shall be subject to a fine of three hundred dollars (\$300) for a first offense, five hundred dollars (\$500) for a second offense, and one thousand dollars (\$1000) for a third and subsequent offense within any calendar year.

### **RI ST § 23-6.3-2. Definitions**

As used in this chapter the following words shall have the following meanings:

- (1) "Agent" means a person empowered by the patient to assert or waive the confidentiality, or to disclose or consent to the disclosure of confidential information, as established by chapter 5-37.3 of the general laws of Rhode Island, as amended, entitled "Confidentiality of Health Care Communications and Information Act."
- (2) "AIDS" means the medical condition known as acquired immune deficiency syndrome, caused by infection of an individual by the human immunodeficiency virus (HIV).
- (3) "Anonymous HIV testing" means an HIV test that utilizes a laboratory generated code based system, which does not require an individual's name or other identifying information that may reveal one's identity, including information related to the individual's health insurance policy, to be associated with the test.

- (4) "Antibody" means a protein produced by the body in response to specific foreign substances such as bacteria or viruses.
- (5) "Community-based organization" means an entity that has written authorization from the department for HIV counseling, testing and referral services (HIV CTRS).
- (6) "Confidential HIV testing" means an HIV test that requires the individual's name and other identifying information including information related to the individual's health insurance policy, as appropriate.
- (7) "Consent" means an explicit exchange of information between a person and a health care provider or qualified professional HIV test counselor through which an informed individual can choose whether to undergo HIV testing or decline to do so. Elements of consent shall include providing each individual with verbal or written information regarding an explanation of HIV infection, a description of interventions that can reduce HIV transmission, the meanings of positive and negative test results, the voluntary nature of the HIV testing, an opportunity to ask questions and to decline testing.
- (8) "Controlled substance" means a drug, substance, or immediate precursor in schedules I-V listed in the provisions of chapter 21-28 entitled, "Uniform Controlled Substances Act".
- (9) "Department" means the Rhode Island department of health.
- (10) "Diagnosis of AIDS" means the most current surveillance case definition for AIDS published in the Centers for Disease Control & Prevention (CDC).
- (11) "Diagnosis of HIV" means the most current surveillance case definition for HIV infection published in the CDC's (MMWR).
- (12) "Director" means the director of the Rhode Island department of health.
- (13) "ELISA result" means enzyme-linked immunosorbent assay or EIA (enzyme immunoassay) which is a serologic technique used in immunology to detect the presence of either antibody or antigen.
- (14) "Health benefits" include accident and sickness, including disability or health insurance, health benefit plans and/or policies, hospital, health, or medical service plans, or any health maintenance organization plan pursuant to title 27 or otherwise.
- (15) "Health care facility" means those facilities licensed by the department in accordance with the provisions of chapter 23-17.
- (16) "Health care provider", as used herein, means a licensed physician, physician assistant, certified nurse practitioner or midwife.
- (17) "Health care settings" means venues offering clinical STD services including, but not limited to, hospitals, urgent care clinics, STD clinics and other substance abuse treatment facilities, mental health treatment facilities, community health centers, primary care and OB/GYN physician offices, and family planning providers.

- (18) "HIV" means the human immunodeficiency virus, the pathogenic organism responsible for HIV infection and/or the acquired immunodeficiency syndrome (AIDS) in humans.
- (19) "HIV CD4 T-lymphocyte test result" means the results of any currently medically accepted and/or FDA approved test used to count CD4 T-lymphatic cells in the blood of an HIV-infected person.
- (20) "HIV counseling" means an interactive process of communication between a person and a health care provider or qualified professional HIV test counselor during which there is an assessment of the person's risks for HIV infection and the provision of counseling to assist the person with behavior changes that can reduce risks for acquiring HIV infection.
- (21) "HIV screening" means the conduct of HIV testing among those who do not show signs or symptoms of an HIV infection.
- (22) "HIV test" means any currently medically accepted and/or FDA approved test for determining HIV infection in humans.
- (23) "Occupational health representative" means a person, within a health care facility, trained to respond to occupational, particularly blood borne, exposures.
- (24) "Opts out" means that a person who has been notified that a voluntary HIV test will be performed, has elected to decline or defer testing. Consent to HIV testing is inferred unless the individual declines testing.
- (25) "Perinatal case report for HIV" means the information that is provided to the department related to a child aged less than eighteen (18) months born to an HIV-infected mother and the child does not meet the criteria for HIV infection or the criteria for "not infected" with HIV as defined in the most current surveillance case definition for HIV infection published by the CDC.
- (26) "Person" means any individual, trust or estate, partnership, corporation (including associations, joint stock companies), limited liability companies, state, or political subdivision or instrumentality of a state.
- (27) "Persons at high risk for HIV infection" means persons defined as being high risk in the CDC's most current recommendations for HIV testing of adults, adolescents and pregnant women in health care settings or through authority and responsibilities conferred on the director by law in protecting the public's health.
- (28) "Polymerase chain reaction (PCR) test" means a common laboratory method of creating copies of specific fragments of DNA or RNA.
- (29) "Qualified professional HIV test counselor" means: (i) A physician, physician assistant, certified nurse practitioner, midwife, or nurse licensed to practice in accordance with applicable state law; (ii) A medical student who is actively matriculating in a medical degree program and who performs duties assigned to them by a physician; or (iii) A person who has completed an HIV counseling training program, in accordance with regulations hereunder promulgated.

- (30) "Sexually transmitted diseases (STD's)" means those diseases included in § 23-11-1, as amended, entitled "Sexually Transmitted Diseases", and any other sexually transmitted disease that may be required to be reported by the department.

#### **RI ST § 23-6.3-4. Exceptions to consent requirements**

- (a) A health care provider may test for the presence of HIV without obtaining consent from the individual to be tested under the following conditions:
- (1) When the individual to be tested is under one year of age;
  - (2) When a child between one and thirteen (13) years of age appears to be symptomatic for HIV;
  - (3) When the individual to be tested is a minor under the care and authority of the department of children, youth and families, and the director of that department certifies that an HIV test is necessary to secure health or human services for that individual;
  - (4) In a licensed health care facility or health care setting, in the event that an occupational health representative or physician, registered nurse practitioner, physician assistant, or nurse-midwife, not directly involved in the exposure, determines that an employee or emergency service worker, other than one in a supervisory position to the person making the determination, had a significant exposure to the blood and/or body fluids of a patient and the patient or the patient's guardian refuses to grant consent for an HIV test to determine whether the patient has HIV, then, if a sample of the patient's blood is available, that blood shall be tested for HIV.
    - (i) If a sample of the patient's blood is not otherwise available and the patient refuses to grant consent to draw blood, the employee or emergency service worker may petition the superior court for a court order mandating that the test be performed.
    - (ii) Before a patient or a sample of the patient's blood is required to undergo an HIV test, the employee or emergency service worker must submit to a baseline HIV test within seventy-two (72) hours of the exposure.
    - (iii) No person who determines that an employee or emergency service worker has sustained a significant exposure and authorizes the HIV testing of a patient, nor any person or health care facility who acts in good faith and recommends the test be performed, shall have any liability as a result of their actions carried out under this chapter, unless those persons are proven to have acted in bad faith.
    - (iv) For the purposes of this section, "emergency service worker" means a worker responding on behalf of a licensed ambulance/rescue service, or a fire department or a law enforcement agency, who, in the course of his/her professional duties, has been exposed to bodily fluids in circumstances that present a significant risk of transmission of HIV, and has completed a pre-hospital exposure form in accordance with § 23-4.1-19.
  - (5) In an emergency, where due to a grave medical or psychiatric condition, and it is impossible to obtain consent from the patient or, if applicable under state law, the patient's parent, guardian, or agent.
  - (6) As permitted under § 23-1-38 entitled "HIV Antibody Testing-Sperm Collection or Donation".
  - (7) Any individual convicted of a violation of any provisions of Chapter 11-34.1 entitled "Commercial Sexual Activity", shall be required to be tested for HIV unless already documented HIV positive. All individuals tested under this section shall be informed of their test results. All individuals tested under this section who are determined to be injecting and/or intra- nasal drug users shall be referred to appropriate substance abuse treatment as outlined in subsection 23-6.3-3(e).

- (8) Any individual convicted of possession of any controlled substance as defined in Chapter 21-28 entitled "Uniform Controlled Substances Act", that has been administered with a hypodermic instrument, retractable hypodermic syringe, needle, intra-nasally, or any similar instrument adapted for the administration of drugs shall be required to be tested for HIV unless already documented HIV positive.
  - (9) All individuals tested under this section shall be informed of their test results.
  - (10) In accordance with the provisions of Chapter 11-37, entitled, "Sexual Assault", any individual who has admitted to or been convicted of or adjudicated wayward or delinquent by reason of having committed any sexual offense involving penetration whether or not a sentence or fine is imposed or probation granted, shall be ordered by the court upon petition of the victim, immediate family members of the victim or legal guardian of the victim, to submit to a blood test for the presence of a sexually transmitted disease including, but not limited to, HIV. All individuals tested under this section shall be informed of their test results.
  - (11) In accordance with the provisions or § 42-56-37, entitled "HIV Testing", every individual who is committed to the adult correctional institutions to any criminal offense, after conviction, is required to be tested for HIV.
- (b) It is unlawful for any person to disclose to a third party the results of an individual's HIV test without the prior written consent of that individual, except in accordance with § 23-6.3-7.

## SOUTH CAROLINA

### SC ST § 16-3-740. Testing of certain convicted offenders for Hepatitis B...

(A) For purposes of this section:

- (1) "Body fluid" means blood, amniotic fluid, pericardial fluid, pleural fluid, synovial fluid, cerebrospinal fluid, semen or vaginal secretions, or any body fluid visibly contaminated with blood.
- (2) "HIV" means the Human Immunodeficiency Virus.
- (3) "Offender" includes adults and juveniles.

(B) Upon the request of a person who is the victim of a criminal offense which involves the sexual penetration of the victim's body or who has been exposed to body fluids during the commission of a criminal offense, or upon the request of the legal guardian of a person who is the victim of a criminal offense which involves the sexual penetration of the victim's body or who has been exposed to body fluids during the commission of a criminal offense, the solicitor, after the offender is charged, must petition the court for an order to have the offender tested for Hepatitis B and HIV. An offender must be tested pursuant to this section for Hepatitis B and HIV as soon as practicable after the court order is issued but not later than forty-eight hours after the date the person is indicted for the offense or waives indictment for the offense. If the offender is subject to the jurisdiction of the family court, he must be tested not later than forty-eight hours after the petition is filed with the family court alleging he is delinquent for committing the offense. If the offender cannot be located before the end of the forty-eight hour period as provided in this subsection, the forty-eight hour period is tolled until the offender is located by law enforcement. To obtain a court order, the solicitor must demonstrate the following, that the:

- (1) victim or the victim's legal guardian requested the tests;
- (2) offender has been charged with, indicted for, or waived indictment for an offense which involved the sexual penetration of the victim's body or that there is probable cause that during the commission of the criminal offense there was a risk that body fluids were transmitted from one person to another; and
- (3) offender has received notice of the petition and notice of his right to have counsel represent him at a hearing.

The results of the tests must be kept confidential but disclosed to the solicitor who obtained the court order. As soon as practicable, the solicitor shall notify only those persons designated in subsection (C) of the results of the initial Hepatitis B and HIV tests and the results of any follow-up HIV tests.

(C) The tests must be administered by the Department of Health and Environmental Control through the local county health department or the medical professional at the state or local detention facility where the offender is imprisoned or detained. The solicitor shall notify the following persons of the tests results:

- (1) the victim or the legal guardian of a victim who is a minor or is a person with intellectual disability or mentally incapacitated;
- (2) the victim's attorney;
- (3) the offender and a juvenile offender's parent or guardian; and
- (4) the offender's attorney.

The results of the tests shall be provided to the designated recipients with the following disclaimer: "The tests were conducted in a medically approved manner, but tests cannot determine infection by Hepatitis B or HIV with absolute accuracy. Additionally, the testing does not determine exposure to, or infection by, other sexually transmitted diseases. Persons receiving the test results should continue to monitor their own health, seek retesting in approximately six months, and should consult a physician as appropriate".

The solicitor also shall provide to the state or local correctional facility where the offender is imprisoned or detained and the Department of Health and Environmental Control the test results for HIV and Hepatitis B which indicate that the offender is infected with the disease. The state or local correctional facility where the offender is imprisoned or detained shall use this information solely for the purpose of providing medical treatment to the offender while the offender is imprisoned or detained. The State shall pay for the tests. If the offender is subsequently convicted or adjudicated delinquent, the offender or the parents of an adjudicated offender must reimburse the State for the costs of the tests unless the offender or the parents of the adjudicated offender are determined to be indigent.

If the tests given pursuant to this section indicate infection by Hepatitis B or HIV, the Department of Health and Environmental Control shall be provided with all test results and must provide counseling to the offender regarding the disease, syndrome, or virus. The Department of Health and Environmental Control must provide counseling for the victim, advise the victim of available medical treatment options, refer the victim to appropriate health care and support services, and, at the request of the victim or the legal guardian of a victim, test the victim for HIV and Hepatitis B and provide post-testing counseling to the victim.

- (D) If deemed medically appropriate, the offender must undergo follow-up testing for HIV. The follow-up testing, and any counseling which may be ordered, shall be performed on dates that occur six weeks, three months, and six months following the initial test. Any follow-up testing shall be terminated if the offender obtains an acquittal on, dismissal of, or is not adjudicated delinquent for all charges for which testing was ordered.
- (E) If, for any reason, the testing requested under subsection (B) has not been undertaken, upon request of the victim or the victim's legal guardian, the court shall order the offender to undergo testing for Hepatitis B and HIV following conviction or delinquency adjudication. The testing shall be administered by the Department of Health and Environmental Control through the local county health department or the medical professional at the state or local detention facility where the offender is imprisoned or detained. The results shall be disclosed in accordance with the provisions of subsection (C).
- (F) Upon a showing of probable cause that the offender committed a crime, the collection of additional samples, including blood, saliva, head or pubic hair may be contemporaneously ordered by the court so that the State may conduct scientific testing, including DNA analysis. The results of the scientific testing, including DNA analysis, may be used for evidentiary purposes in any court proceeding.
- (G) Any person or entity who administers tests ordered pursuant to this section and who does so in accordance with this section and accepted medical standards for the administration of these tests shall be immune from civil and criminal liability arising from his conduct.
- (H) Any person who discloses information in accordance with the provisions of this section or who participates in any judicial proceeding resulting from the disclosure and who does so in good faith and without malice

shall have immunity from civil or criminal liability that might otherwise be incurred or imposed in an action resulting from the disclosure.

- (I) Results of tests performed pursuant to this section shall not be used as evidence in any criminal trial of the offender except as provided for in subsection (F).

### **SC ST § 44-29-100. Examination and treatment of prisoners for...**

Any person who is confined or imprisoned in any state, county, or city prison of this State may be examined and treated for a sexually transmitted disease by the health authorities or their deputies. The state, county, and municipal boards of health may take over a portion of any state, county, or city prison for use as a board of health hospital. Persons who are confined or imprisoned and who are suffering with a sexually transmitted disease at the time of expiration of their terms of imprisonment must be isolated and treated at public expense as provided in Section 44-29-90 until, in the judgment of the local health officer, the prisoner may be medically discharged. In lieu of isolation, the person, in the discretion of the board of health, may be required to report for treatment to a licensed physician or submit for treatment provided at public expense by the Department of Health and Environmental Control as provided in Section 44-29-90.

### **SC ST § 44-29-130. Adoption of regulations pertaining to sexually...**

The Department of Health and Environmental Control shall promulgate regulations necessary to carry out the purposes of Sections 44-29-60 to 44-29-140, other than Section 44-29-120, including regulations providing for labor on the part of isolated persons considered necessary to provide in whole or in part for their subsistence and to safeguard their general health and regulations concerning sexually transmitted diseases as it considers advisable. All regulations so made are binding upon all county and municipal health officers and other persons affected by Sections 44-29-60 to 44-29-140.

### **SC ST § 44-29-135. Confidentiality of sexually transmitted disease records**

All information and records held by the Department of Health and Environmental Control and its agents relating to a known or suspected case of a sexually transmitted disease are strictly confidential except as provided in this section. The information must not be released or made public, upon subpoena or otherwise, except under the following circumstances:

- (a) release is made of medical or epidemiological information for statistical purposes in a manner that no individual person can be identified;
- (b) release is made of medical or epidemiological information with the consent of all persons identified in the information released;
- (c) release is made of medical or epidemiological information to the extent necessary to enforce the provisions of this chapter and related regulations concerning the control and treatment of a sexually transmitted disease;
- (d) release is made of medical or epidemiological information to medical personnel to the extent necessary to protect the health or life of any person;

- (e) in cases involving a minor, the name of the minor and medical information concerning the minor must be reported to appropriate agents if a report of abuse or neglect is required by Section 63-7-310; or
- (f) if a minor has Acquired Immunodeficiency Syndrome (AIDS) or is infected with Human Immunodeficiency Virus (HIV), the virus that causes AIDS, and is attending a public school in kindergarten through fifth grade, the department shall notify the superintendent of the school district and the nurse or other health professional assigned to the school the minor attends. This notification and information contained in the notification must not be recorded in the child's permanent record. However, if this information is in the child's permanent school record, the information must be purged from the child's record before the child enters the sixth grade.

#### **SC ST § 44-29-136. Court orders for disclosure of records for law...**

- (A) A portion of a person's sexually transmitted disease test results disclosed to a solicitor or state criminal law enforcement agency pursuant to Section 44-29-135(c) must be obtained by court order upon a finding by the court that the request is valid under Section 44-29-135(c) and that there is a compelling need for the test results. In determining a compelling need, the court must weigh the need for disclosure against both the privacy interest of the test subject and the potential harm to the public interest if disclosure deters future Human Immunodeficiency Virus-related testing and counselling or blood, organ, and semen donation. No information regarding persons other than the subject of the test results must be released. The court shall provide the department and the person who is the subject of the test results with notice and an opportunity to participate in the court hearing.
- (B) No court may issue an order solely on the basis of anonymous tips or anonymous information. A person who provides information relied upon by a law enforcement agency or solicitor to obtain records under Section 44-29-135(c) shall sign a sworn affidavit setting forth the facts upon which he bases his allegations. This person shall appear and be subject to examination and cross-examination at the hearing to determine whether an order requiring disclosure should be granted.
- (C) Pleadings pertaining to disclosure of test results must substitute a pseudonym for the true name of the subject of the test. The disclosure to the parties of the subject's true name must be communicated in documents sealed by the court. Court proceedings must be conducted in camera unless the subject of the test results requests a hearing in open court. All files regarding the court proceedings must be sealed unless waived by the subject of the test results.
- (D) Upon issuance of an order to disclose the test results pursuant to Section 44-29-135(c), the court may impose appropriate safeguards against the unauthorized disclosure of the information including, but not limited to, specifying who may have access to the information, the purposes for which the information must be used, and prohibitions against further disclosure of the information.

#### **SC ST § 44-29-60. Sexually transmitted diseases declared dangerous to...**

Sexually transmitted diseases which are included in the annual Department of Health and Environmental Control List of Reportable Diseases are declared to be contagious, infectious, communicable, and dangerous to the public health. Sexually transmitted diseases include all venereal diseases. It is unlawful for anyone infected with these diseases to knowingly expose another to infection.

### **SC ST § 44-29-90. Examination, treatment and isolation of persons...**

State, district, county, and municipal health officers, in their respective jurisdictions, when in their judgment it is necessary to protect the public health, shall make examination of persons infected or suspected of being infected with a sexually transmitted disease, require persons infected with a sexually transmitted disease to report for treatment appropriate for their particular disease provided at public expense, and request the identification of persons with whom they have had sexual contact or intravenous drug use contact, or both. The health officer may isolate persons infected or reasonably suspected of being infected with a sexually transmitted disease. To the extent resources are available to the Department of Health and Environmental Control for this purpose, when a person is identified as being infected with Human Immunodeficiency Virus (HIV), the virus which causes Acquired Immunodeficiency Syndrome (AIDS), his known sexual contacts or intravenous drug use contacts, or both, must be notified but the identity of the person infected must not be revealed. Efforts to notify these contacts may be limited to the extent of information provided by the person infected with HIV. Public monies appropriated for treatment of persons infected with a sexually transmitted disease must be expended in accordance with priorities established by the department, taking into account the cost effectiveness, curative capacity of the treatment, and the public health benefit to the population of the State.

## **SOUTH DAKOTA**

### **SD ST § 25-1-28.1. Distribution of HIV educational material before license...**

At the time the application for a marriage license is filed, the register of deeds shall distribute to each applicant educational materials prepared and provided at no cost to the counties by the Department of Health on topics related to sexually transmitted disease, HIV transmission, and prenatal care. The information shall include a list of locations where counseling and testing services are available.

### **SD ST § 34-23-1. Diseases declared dangerous--Exposure of another as...**

Syphilis, gonorrhea, and chancroid hereinafter designated as venereal diseases are hereby declared to be contagious, infectious, communicable, and dangerous to the public health. It is a Class 2 misdemeanor for anyone infected with these diseases or any of them to expose another person to infection.

### **SD ST § 34-23-10. Blood sample and testing when pregnant woman not...**

Every person other than a physician permitted by law to attend upon pregnant women in the state but not permitted by law to take blood tests, shall cause a sample of the blood of such pregnant woman to be taken by a duly licensed physician and submitted for standard serological tests for syphilis to the Office of Laboratory Services or such other laboratories cooperating with, and approved by, the Department of Health.

### **SD ST § 34-23-12. Blood test during pregnancy noted on birth...**

In reporting every birth and stillbirth, physicians and others permitted to attend pregnancy cases and required to report births and stillbirths shall state on the birth certificate or fetal death certificate, as the case may be, whether a blood test for syphilis has been made during such pregnancy upon a specimen of blood taken from the woman who bore the child for which a birth or fetal death certificate is filed, and if made, the date when such test was made, and if not made, the reason why such test was not made. In no event shall the certificate state the result of the test.

### **SD ST § 34-23-13. Rules and regulations for venereal disease control**

The State Department of Health is hereby empowered and directed to make, in compliance with chapter 1-26, such rules and regulations as shall in its judgment be necessary for the carrying out of the provisions of this chapter, including rules and regulations provided for the control and treatment of persons isolated or quarantined under the provisions of this chapter and such other rules and regulations not in conflict with the provisions of this chapter concerning the control of venereal diseases and concerning the care, treatment, and quarantine of persons infected therewith, as it may from time to time deem advisable.

All such rules and regulations so made shall be of force and binding upon all county and municipal health officers and other persons affected by this chapter.

### **SD ST § 34-23-16. Minor's consent to treatment by physician...**

Any licensed physician, upon consultation by any minor as a patient, may, with the consent of such person who is hereby granted the right of giving such consent, make a diagnostic examination for venereal disease and prescribe for and treat such person for venereal disease including prophylactic treatment for exposure to

venereal disease whenever such person is suspected of having a venereal disease or contact with anyone having a venereal disease. Any such consent shall not be subject to later disaffirmance by reason of minority.

#### **SD ST § 34-23-2. Reports of cases required of physicians and...**

Any physician or other person who makes a diagnosis in or treats a case of venereal disease and any superintendent or manager of a hospital, dispensary, or charitable or penal institution in which there is a case of venereal disease shall make a report of such case to the health authorities in such form and manner as the State Department of Health shall direct. The identity of any individual appurtenant to an investigation conducted pursuant to a report of a venereal disease shall be maintained in strictest confidence within the venereal disease control system, and any information obtained from that individual may not be disclosed in any action in any court or before any tribunal, board, or agency.

#### **SD ST § 34-23-4. Infected persons required to submit to treatment--Isolation...**

State, county, and municipal health officers or their authorized deputies within their respective jurisdiction are hereby directed and empowered to require persons infected with venereal disease to report for treatment to a reputable physician and continue treatment until cured or to submit to treatment provided at public expense until cured, and also, when in their judgment it is necessary to protect the public health, to isolate or quarantine persons infected with venereal disease.

#### **SD ST § 34-23-5. Quarantine or isolation of infected person convicted of...**

Any person convicted of being a prostitute or inmate of a disorderly house who may be found to be infected with venereal disease in a stage which, in the opinion of the health officer, is or is apt to become communicable, shall be quarantined or isolated so long as such person is so infected.

#### **SD ST § 34-23-7. Treatment facilities provided by prison officials--Prisoners...**

The authorities of any state, county, or city prison are directed to make available to the health authorities such portion of any state, county, or city prison as may be necessary for a clinic or hospital wherein all persons who may be confined or imprisoned in any such prison and who are infected with venereal disease, and all such persons who are suffering with venereal disease at the time of the expiration of their term of imprisonment, and in case no other suitable place for isolation or quarantine is available, such other persons as may be isolated or quarantined under the provisions of this chapter shall be isolated and treated at public expense until cured. In lieu of such isolation any of such persons may in the discretion of the Department of Health be required to report for treatment to a licensed physician or submit to treatment provided at public expense.

#### **SD ST § 34-23-9. Attending physician to take blood sample from pregnant...**

Each physician attending a pregnant woman in this state during gestation shall, in the case of each woman so attended, take or cause to be taken a sample of blood of such woman at the time of the first examination, and submit such sample for standard serological tests for syphilis to the Office of Laboratory Services or such other laboratories cooperating with, and approved by, the Department of Health.

### **SD ST § 57A-2-315.1. Implied warranties--Exclusion of sales of blood...**

The implied warranties of merchantability and fitness shall not be applicable, so far as the transmission of certain infectious diseases, such as viral hepatitis, cytomegalovirus, human immunodeficiency virus, malaria and syphilis, and potential immunologic reactions, which diseases and reactions cannot be detected by standard testing are concerned, to a contract for the sale of human blood, blood components, or other human tissue or organs from a blood bank or reservoir of such other tissue or organs. Blood, blood components or tissue or organs shall not for purposes of this chapter be considered commodities subject to sale or barter, but shall be considered as medical services.

## TENNESSEE

### TN ST § 68-10-101. Definitions

As used in this chapter, unless the context otherwise requires:

- (1) “Commissioner” means the commissioner of health or the commissioner's designee; or in the absence of the commissioner, the deputy commissioner;
- (2) “Department” means the department of health;
- (3) “Forms” means the certificates that are authorized, prepared and distributed by the department to carry out this chapter;
- (4) “Sexually transmitted disease (STD)” means any disease that is transmitted primarily through sexual practices and is identified in rules and regulations of the department; and
- (5) “Test” means a test approved by the department to determine possible infection with STDs.

### TN ST § 68-10-112. Reports

- (a) Every physician or other person who makes a diagnosis of, treats, or prescribes for a case of STD and every superintendent or manager of a clinic, hospital, laboratory or penal institution, in which there is a case of STD, shall report the case immediately to those persons or agencies designated as recipients of such reports by the commissioner.
- (b) Reports shall be made on forms supplied by the department, stating the name, address, age, sex, race, stage of the disease and other information on the form as may be required for the location, treatment and control of infectious cases.
- (c) Reporting of STDs, other than those designated as reportable in the regulations promulgated by the department, is not required.

## TEXAS

### TX FAMILY § 54.033. Sexually Transmitted Disease, AIDS, and HIV Testing

- (a) A child found at the conclusion of an adjudication hearing under Section 54.03 of this code to have engaged in delinquent conduct that included a violation of Sections 21.11(a)(1), 22.011, or 22.021, Penal Code, shall undergo a medical procedure or test at the direction of the juvenile court designed to show or help show whether the child has a sexually transmitted disease, acquired immune deficiency syndrome (AIDS), human immunodeficiency virus (HIV) infection, antibodies to HIV, or infection with any other probable causative agent of AIDS. The court may direct the child to undergo the procedure or test on the court's own motion or on the request of the victim of the delinquent conduct.
- (b) If the child or another person who has the power to consent to medical treatment for the child refuses to submit voluntarily or consent to the procedure or test, the court shall require the child to submit to the procedure or test.
- (c) The person performing the procedure or test shall make the test results available to the local health authority. The local health authority shall be required to notify the victim of the delinquent conduct and the person found to have engaged in the delinquent conduct of the test result.
- (d) The state may not use the fact that a medical procedure or test was performed on a child under this section or use the results of the procedure or test in any proceeding arising out of the delinquent conduct.
- (e) Testing under this section shall be conducted in accordance with written infectious disease control protocols adopted by the Texas Board of Health that clearly establish procedural guidelines that provide criteria for testing and that respect the rights of the child and the victim of the delinquent conduct.
- (f) Nothing in this section allows a court to release a test result to anyone other than a person specifically authorized under this section. Section 81.103(d), Health and Safety Code, may not be construed to allow the disclosure of test results under this section except as provided by this section.

### TX HEALTH & S § 81.003. Definitions

In this chapter:

- (1) "Communicable disease" means an illness that occurs through the transmission of an infectious agent or its toxic products from a reservoir to a susceptible host, either directly, as from an infected person or animal, or indirectly through an intermediate plant or animal host, a vector, or the inanimate environment.
- (2) "Health authority" means:
  - (A) a physician appointed as a health authority under Chapter 121 (Local Public Health Reorganization Act) or the health authority's designee; or
  - (B) a physician appointed as a regional director under Chapter 121 (Local Public Health Reorganization Act) who performs the duties of a health authority or the regional director's designee.
- (3) "Health professional" means an individual whose:

- (b) vocation or profession is directly or indirectly related to the maintenance of the health of another individual or of an animal; and
- (c) duties require a specified amount of formal education and may require a special examination, certificate or license, or membership in a regional or national association.

(4) "Local health department" means a department created under Chapter 121 (Local Public Health Reorganization Act).

(4-a) "Peace officer" has the meaning assigned by Article 2.12, Code of Criminal Procedure. The term includes a sheriff or constable.

(5) "Physician" means a person licensed to practice medicine by the Texas State Board of Medical Examiners.

(6) "Public health district" means a district created under Chapter 121 (Local Public Health Reorganization Act).

(7) "Public health disaster" means:

- (A) a declaration by the governor of a state of disaster; and
- (B) a determination by the commissioner that there exists an immediate threat from a communicable disease that:

- (i) poses a high risk of death or serious long-term disability to a large number of people; and
- (ii) creates a substantial risk of public exposure because of the disease's high level of contagion or the method by which the disease is transmitted.

(8) "Reportable disease" includes only a disease or condition included in the list of reportable diseases. (9) "Resident of this state" means a person who:

- (A) is physically present and living voluntarily in this state;
- (B) is not in the state for temporary purposes; and
- (C) intends to make a home in this state, which may be demonstrated by the presence of personal effects at a specific abode in the state; employment in the state; possession of a Texas driver's license, motor vehicle registration, voter registration, or other similar documentation; or other pertinent evidence.

(9) "School authority" means:

- (A) the superintendent of a public school system or the superintendent's designee; or (B) the principal or other chief administrative officer of a private school.

(10) "Sexually transmitted disease" means an infection, with or without symptoms or clinical manifestations, that may be transmitted from one person to another during, or as a result of, sexual relations between two persons and that may:

- (A) produce a disease in, or otherwise impair the health of, either person; or
- (B) cause an infection or disease in a fetus in utero or a newborn.

## **TX HEALTH & S § 85.088. State-Funded Health Clinics**

- (a) State-funded primary health, women's reproductive health, and sexually transmitted disease clinics shall:
- (1) make available to patients and clients information and educational materials concerning the prevention of HIV infection; and
  - (2) provide voluntary, anonymous, and affordable counseling and testing programs concerning HIV infection or provide referrals to those programs.
- (b) Information provided under Subsection (a)(1) shall be routinely incorporated into patient education and counseling in clinics specializing in sexually transmitted diseases and women's reproductive health.

## **TX CRIM PRO Art. 21.31. Testing for AIDS and Certain Other Diseases**

- (a) A person who is indicted for or who waives indictment for an offense under Section 21.02, 21.11(a)(1), 22.011, or 22.021, Penal Code, shall, at the direction of the court on the court's own motion or on the request of the victim of the alleged offense, undergo a standard diagnostic test approved by the United States Food and Drug Administration for human immunodeficiency virus (HIV) infection and other sexually transmitted diseases. If the person refuses to submit voluntarily to the test, the court shall require the person to submit to the test. On request of the victim of the alleged offense, the court shall order the defendant to undergo the test not later than 48 hours after an indictment for the offense is presented against the defendant or the defendant waives indictment. Except as provided by Subsection (b-1), the court may require a defendant previously required under this article to undergo a diagnostic test on indictment for an offense to undergo a subsequent test only after conviction of the offense. A person performing a test under this subsection shall make the test results available to the local health authority, and the local health authority shall be required to make the notification of the test results to the victim of the alleged offense and to the defendant.
- (a-1) If the victim requests the testing of the defendant and a law enforcement agency is unable to locate the defendant during the 48-hour period allowed for that testing under Subsection (a), the running of the 48-hour period is tolled until the law enforcement agency locates the defendant and the defendant is present in the jurisdiction.
- (b) The court shall order a person who is charged with an offense under Section 22.11, Penal Code, to undergo in the manner provided by Subsection (a) a diagnostic test designed to show or help show whether the person has HIV, hepatitis A, hepatitis B, tuberculosis, or any other disease designated as a reportable disease under Section 81.048, Health and Safety Code. The person charged with the offense shall pay the costs of testing under this subsection.
- (b-1) If the results of a diagnostic test conducted under Subsection (a) or (b) are positive for HIV, the court shall order the defendant to undergo any necessary additional testing within a reasonable time after the test results are released.
- (c) The state may not use the fact that a test was performed on a person under Subsection (a) or use the results of a test conducted under Subsection (a) in any criminal proceeding arising out of the alleged offense.

- (d) Testing under this article shall be conducted in accordance with written infectious disease control protocols adopted by the Texas Board of Health that clearly establish procedural guidelines that provide criteria for testing and that respect the rights of the person accused and any victim of the alleged offense.
- (e) This article does not permit a court to release a test result to anyone other than those authorized by law, and the provisions of Section 81.103(d), Health and Safety Code, may not be construed to allow that disclosure.

## UTAH

### UT ST § 26-6-16. Venereal diseases declared dangerous to public health

Syphilis, gonorrhea, lymphogranuloma inguinale (venereum) and chancroid are hereby declared to be contagious, infectious, communicable and dangerous to the public health.

### UT ST § 26-6-17. Venereal disease--Examinations by

State, county, and municipal health officers within their respective jurisdictions may make examinations of persons reasonably suspected of being infected with venereal disease. Persons infected with venereal disease shall be required to report for treatment to either a reputable physician and continue treatment until cured or to submit to treatment provided at public expense until cured.

### UT ST § 26-6-18. Venereal disease--Consent of minor to treatment

- (1) A consent to medical care or services by a hospital or public clinic or the performance of medical care or services by a licensed physician executed by a minor who is or professes to be afflicted with a sexually transmitted disease, shall have the same legal effect upon the minor and the same legal obligations with regard to the giving of consent as a consent given by a person of full legal age and capacity, the infancy of the minor and any contrary provision of law notwithstanding.
- (2) The consent of the minor is not subject to later disaffirmance by reason of minority at the time it was given and the consent of no other person or persons shall be necessary to authorize hospital or clinical care or services to be provided to the minor by a licensed physician.
- (3) The provisions of this section shall apply also to minors who profess to be in need of hospital or clinical care and services or medical care or services provided by a physician for suspected sexually transmitted disease, regardless of whether such professed suspicions are subsequently substantiated on a medical basis.

### UT ST § 26-6-19. Venereal disease--Examination and treatment of

- (1) All persons confined in any state, county, or city prison or jail shall be examined, and if infected, treated for venereal diseases by the health authorities. The prison authorities of every state, county, or city prison or jail shall make available to the health authorities such portion of the prison or jail as may be necessary for a clinic or hospital wherein all persons suffering with venereal disease at the time of the expiration of their terms of imprisonment, shall be isolated and treated at public expense until cured.
- (2) The department may require persons suffering with venereal disease at the time of the expiration of their terms of imprisonment to report for treatment to a licensed physician or submit to treatment provided at public expense in lieu of isolation. Nothing in this section shall interfere with the service of any sentence imposed by a court as a punishment for the commission of crime.

### UT ST § 26-6-2. Definitions

As used in this chapter:

- (1) "Ambulatory surgical center" is as defined in Section 26-21-2.
- (2) "Carrier" means an infected individual or animal who harbors a specific infectious agent in the absence of discernible clinical disease and serves as a potential source of infection for man. The carrier state may occur in an individual with an infection that is inapparent throughout its course, commonly known as healthy or asymptomatic carrier, or during the incubation period, convalescence, and postconvalescence of an individual with a clinically recognizable disease, commonly known as incubatory carrier or convalescent carrier. Under either circumstance the carrier state may be of short duration, as a temporary or transient carrier, or long duration, as a chronic carrier.
- (3) "Communicable disease" means illness due to a specific infectious agent or its toxic products which arises through transmission of that agent or its products from a reservoir to a susceptible host, either directly, as from an infected individual or animal, or indirectly, through an intermediate plant or animal host, vector, or the inanimate environment.
- (4) "Communicable period" means the time or times during which an infectious agent may be transferred directly or indirectly from an infected individual to another individual, from an infected animal to man, or from an infected man to an animal, including arthropods.
- (5) "Contact" means an individual or animal having had association with an infected individual, animal, or contaminated environment so as to have had an opportunity to acquire the infection.
- (6) "End stage renal disease facility" is as defined in Section 26-21-2.
- (7) "Epidemic" means the occurrence or outbreak in a community or region of cases of an illness clearly in excess of normal expectancy and derived from a common or propagated source. The number of cases indicating an epidemic will vary according to the infectious agent, size, and type of population exposed, previous experience or lack of exposure to the disease, and time and place of occurrence. Epidemicity is considered to be relative to usual frequency of the disease in the same area, among the specified population, at the same season of the year.
- (8) "General acute hospital" is as defined in Section 26-21-2.
- (9) "Incubation period" means the time interval between exposure to an infectious agent and appearance of the first sign or symptom of the disease in question.
- (10) "Infected individual" means an individual who harbors an infectious agent and who has manifest disease or inapparent infection. An infected individual is one from whom the infectious agent can be naturally acquired.
- (11) "Infection" means the entry and development or multiplication of an infectious agent in the body of man or animals. Infection is not synonymous with infectious disease; the result may be inapparent or manifest. The presence of living infectious agents on exterior surfaces of the body, or upon articles of apparel or soiled articles, is not infection, but contamination of such surfaces and articles.
- (12) "Infectious agent" means an organism such as a virus, rickettsia, bacteria, fungus, protozoan, or helminth that is capable of producing infection or infectious disease.

- (13) “Infectious disease” means a disease of man or animals resulting from an infection.
- (14) “Isolation” means the separation, for the period of communicability, of infected individuals or animals from others, in such places and under such conditions as to prevent the direct or indirect conveyance of the infectious agent from those infected to those who are susceptible or who may spread the agent to others.
- (15) “Quarantine” means the restriction of the activities of well individuals or animals who have been exposed to a communicable disease during its period of communicability to prevent disease transmission.
- (16) “School” means a public, private, or parochial nursery school, licensed or unlicensed day care center, child care facility, family care home, headstart program, kindergarten, elementary, or secondary school through grade 12.
- (17) “Sexually transmitted disease” means those diseases transmitted through sexual intercourse or any other sexual contact. (18) “Specialty hospital” is as defined in Section 26-21-2.

### **UT ST § 26-6-20. Serological testing of pregnant or recently delivered women**

- (1) Every licensed physician and surgeon attending a pregnant or recently delivered woman for conditions relating to her pregnancy shall take or cause to be taken a sample of blood of the woman at the time of first examination or within 10 days thereafter. The blood sample shall be submitted to an approved laboratory for a standard serological test for syphilis. The provisions of this section do not apply to any female who objects thereto on the grounds that she is a bona fide member of a specified, well recognized religious organization whose teachings are contrary to the tests.
- (2) Every other person attending a pregnant or recently delivered woman, who is not permitted by law to take blood samples, shall within 10 days from the time of first attendance cause a sample of blood to be taken by a licensed physician. The blood sample shall be submitted to an approved laboratory for a standard serological test for syphilis.
- (3) An approved laboratory is a laboratory approved by the department according to its rules governing the approval of laboratories for the purpose of this title. In submitting the sample to the laboratory the physician shall designate whether it is a prenatal test or a test following recent delivery.
- (4) For the purpose of this chapter, a “standard serological test” means a test for syphilis approved by the department and made at an approved laboratory.
- (5) The laboratory shall transmit a detailed report of the standard serological test, showing the result thereof to the physician.

### **UT ST § 26-6-3. Authority to investigate and control epidemic infections**

- (1) The department has authority to investigate and control the causes of epidemic infections and communicable disease, and shall provide for the detection, reporting, prevention, and control of

communicable diseases and epidemic infections or any other health hazard which may affect the public health.

- (2) (a) As part of the requirements of Subsection (1), the department shall distribute to the public and to health care professionals:
- (i) medically accurate information about sexually transmitted diseases that may cause infertility and sterility if left untreated, including descriptions of:
    - (A) the probable side effects resulting from an untreated sexually transmitted disease, including infertility and sterility;
    - (B) medically accepted treatment for sexually transmitted diseases;
    - (C) the medical risks commonly associated with the medical treatment of sexually transmitted diseases; and
    - (D) suggest screening by a private physician; and
  - (ii) information about:
    - (A) public services and agencies available to assist individuals with obtaining treatment for the sexually transmitted disease;
    - (B) medical assistance benefits that may be available to the individual with the sexually transmitted disease; and
    - (C) abstinence before marriage and fidelity after marriage being the surest prevention of sexually transmitted disease.
- (b) The information required by Subsection (2) (a):
- (i) shall be distributed by the department and by local health departments free of charge;
  - (ii) shall be relevant to the geographic location in which the information is distributed by:
    - (A) listing addresses and telephone numbers for public clinics and agencies providing services in the geographic area in which the information is distributed; and
    - (B) providing the information in English as well as other languages that may be appropriate for the geographic area.
- (c) (i) Except as provided in Subsection (2)(c)(ii), the department shall develop written material that includes the information required by this Subsection (2).
- (ii) In addition to the written materials required by Subsection (2)(c)(i), the department may distribute the information required by this Subsection (2) by any other methods the department determines is appropriate to educate the public, excluding public schools, including websites, toll free telephone numbers, and the media.
  - (iii) If the information required by Subsection (2)(b)(ii)(A) is not included in the written pamphlet developed by the department, the written material shall include either a website, or a 24-hour toll free telephone number that the public may use to obtain that information.

### **UT ST § 30-1-2.3. Validation of marriage to a person with acquired**

Each marriage contracted prior to October 21, 1993, is valid and legal but for the prohibition described in Laws of Utah 1991, Chapter 117, Section 1, Subsection 30-1-2(1) regarding persons afflicted with acquired immune deficiency syndrome, syphilis, or gonorrhea, is hereby valid and made lawful in all respects as though that marriage had been legally contracted in the first instance.

### **UT ST § 58-1-501.3. Health professional prescribing exceptions for**

(1) For purposes of this section:

(a) “Drug to treat a sexually transmitted disease” means a drug:

- (i) as defined in Section 58-17b-102; and
- (ii) that is:

(A) an antibiotic; and

(B) prescribed in accordance with guidelines from the Centers for Disease Control and Prevention for patient delivered expedited partner therapy in the management of sexually transmitted disease.

(b) “Partner” means a person:

- (i) with whom a practitioner does not have a bonafide practitioner-patient relationship; and
- (ii) who is identified as, or claims to be a sexual partner of a patient.

(c) “Patient” means a person who:

- (i) has a sexually transmitted disease; and
- (ii) has a bonafide practitioner-patient relationship with a practitioner.

(d) “Sexually transmitted disease” means:

- (i) gonorrhea; or
- (ii) chlamydia.

(2) This section does not require a practitioner or a licensee under this chapter to prescribe or dispense a drug to treat a sexually transmitted disease for patient delivered expedited partner therapy. A practitioner's or licensee's decision to use expedited partner therapy as allowed by this section is voluntary.

(3) Notwithstanding Sections 58-1-501, 58-17b-501, and 58-17b-502, it is not unlawful conduct or unprofessional conduct, and it does not violate the provisions of this chapter if:

(a) a practitioner, in accordance with this Subsection (3):

(i) issues a prescription for a drug to treat a sexually transmitted disease to a partner by:

(A) writing “partner of (patient name)” on the prescription order; and

- (B) giving the partner's prescription to the patient for subsequent use by the partner; or
  - (ii) notwithstanding Section 58-17b-610, dispenses a drug sample to treat a sexually transmitted disease to the patient for the subsequent use of the partner; or
- (b) a pharmacist, in accordance with this Subsection (3), dispenses a prescription drug for the treatment of a sexually transmitted disease to:
- (i) a person who:
    - (A) claims to be a partner; and
    - (B) presents a prescription for the drug to the pharmacist which is written for the unnamed partner of a named patient;
  - (ii) the patient for the subsequent use by the unnamed partner; or
  - (iii) an agent of the patient or partner.
- (4) (a) For purposes of Subsection (3), and notwithstanding Section 58-17b-602:
- (i) the partner does not have to be identified on the prescription order by information that would disclose the identity of the partner; and
  - (ii) when dispensing a drug to treat a sexually transmitted disease directly to the partner, the patient's identifying information may, but does not need to, be included on the partner's drug label.
- (b) Information provided by a pharmacist to a patient or the patient's agent for subsequent use by a partner satisfies the requirements of patient counseling for both the patient and the partner under Section 58-17b-613.
- (5) (a) The Legislature finds that the prevention and treatment of sexually transmitted diseases in the state is a compelling public health issue.
- (b) A practitioner or licensee under this chapter is not liable for a medical malpractice action if the use of expedited partner therapy is in compliance with this section, except for those acts which are grossly negligent or willful and wanton.

### **UT ST § 78B-8-401. Definitions**

- (1) "Blood or contaminated body fluids" includes blood, saliva, amniotic fluid, pericardial fluid, peritoneal fluid, pleural fluid, synovial fluid, cerebrospinal fluid, semen, and vaginal secretions, and any body fluid visibly contaminated with blood.
- (2) "Disease" means Human Immunodeficiency Virus infection, acute or chronic Hepatitis B infection, Hepatitis C infection, and any other infectious disease specifically designated by the Labor Commission in consultation with the Department of Health for the purposes of this chapter.
- (3) "Emergency services provider" means:

- (a) an individual certified under Section 26-8a-302, a public safety officer, local fire department personnel, or personnel employed by the Department of Corrections or by a county jail, who provide prehospital emergency care for an emergency services provider either as an employee or as a volunteer; or
  - (b) an individual who provides for the care, control, support, or transport of a prisoner.
- (4) “First aid volunteer” means a person who provides voluntary emergency assistance or first aid medical care to an injured person prior to the arrival of an emergency medical services provider or public safety officer.
- (5) “Prisoner” is as defined in Section 76-5-101.
- (6) “Public safety officer” means a peace officer as defined in Title 53, Chapter 13, Peace Officer Classifications.
- (7) “Significant exposure” and “significantly exposed” mean:
- (a) exposure of the body of one person to the blood or body fluids of another person by:
    - (i) percutaneous injury, including a needle stick, cut with a sharp object or instrument, or a wound resulting from a human bite, scratch, or similar force; or
    - (ii) contact with an open wound, mucous membrane, or nonintact skin because of a cut, abrasion, dermatitis, or other damage; or
  - (b) exposure that occurs by any other method of transmission defined by the Department of Health as a significant exposure.

## VERMONT

### VT ST T. 18 § 1091. Venereal diseases; definitions

In this subchapter, unless the context requires otherwise:

- (1) "Authoritative source" means a physician licensed in the state, superintendent of a state institution or private hospital, medical officers of the armed forces of the state or United States, state and territorial health officers and personnel of the health department designated by the board of health.
- (2) "Venereal disease" means syphilis, gonorrhea, and any other sexually transmitted disease which the department finds to be of significance and amenable to control.

### VT ST T. 18 § 1091a. Venereal diseases, control

Venereal diseases are contagious, infectious, communicable and dangerous to public health. Protection of the public requires the identification and treatment of persons infected by those diseases.

### VT ST T. 18 § 1092. Treatments, refusal, penalty

A physician or other person, except persons who merely practice the religious tenets of their church without pretending a knowledge of medicine or surgery, provided however, that sanitary laws, rules and regulations are complied with, who knows or has reason to believe that a person whom he or she treats or prescribes for, or to whom he or she sells patent or proprietary medicine purporting to cure or alleviate the symptoms of gonorrhea or syphilis, has one of these diseases, shall immediately report the name, nationality, race, marital state, address, age, and sex of such person, and, if obtainable, the date and source of contracting the same, to the commissioner on forms furnished for that purpose. Such persons so reported shall submit to regular treatment prescribed by a physician until discharged by the physician. A person who wilfully refuses to regularly submit to prescribed treatment shall be reported at once to the state's attorney for immediate prosecution. Such wilful refusal shall be punishable by a fine of not more than \$100.00 or three months' imprisonment or both.

### VT ST T. 18 § 1095. Treatment of partner of patient diagnosed with a...

(a) As used in this section:

- (1) "Expedited partner treatment" means the practice of treating the sexual partner or partners of a patient diagnosed with a sexually transmitted disease for the sexually transmitted disease by providing a prescription or medication to the patient for the sexual partner or partners without the prescribing or dispensing health care professional examining the sexual partner or partners.
- (2) "Health care professional" means a physician licensed pursuant to 26 V.S.A. chapter 23 or 33, a physician's assistant certified to prescribe and dispense prescription drugs pursuant to 26 V.S.A. chapter 31, or a nurse authorized to prescribe and dispense prescription drugs pursuant to 26 V.S.A. chapter 28.

<Text of subsec. (b) effective until Mar. 1, 2014>

- (b) A health care professional may provide expedited partner treatment to a patient's sexual partner or partners for the treatment of chlamydia or gonorrhea and for any other sexually transmitted disease designated by the Commissioner by rule.

<Text of subsec. (b) effective Mar. 1, 2014>

- (b) A health care professional may provide expedited partner treatment to a patient's sexual partner or partners for the treatment of a sexually transmitted disease designated by the Commissioner by rule.
- (c) A health care professional who prescribes or dispenses prescription drugs for a patient's sexual partner or partners without an examination pursuant to subsection (b) of this section shall do so in accordance with guidance published by the Commissioner and shall include with each prescription and medication dispensed a letter that:
- (1) cautions the sexual partner not to take the medication if he or she is allergic to the medication prescribed or dispensed; and
  - (2) recommends that the sexual partner visit a health care professional for evaluation.

<Text of subsec. (d) effective until Mar. 1, 2014>

- (d) The Commissioner may establish by rule additional treatment standards for expedited partner treatment and authorize expedited partner treatment for additional sexually transmitted diseases provided that expedited partner treatment for those additional diseases conforms to the best practice recommendations of the Centers for Disease Control and Prevention.

<Text of subsec. (d) effective Mar. 1, 2014>

- (d) The Commissioner shall establish by rule additional treatment standards for expedited partner treatment and authorize expedited partner treatment for any sexually transmitted diseases provided that expedited partner treatment for those diseases conforms to the best practice recommendations of the Centers for Disease Control and Prevention.

### **VT ST T. 18 § 1101. Reports by public institutions**

The superintendent or other officer in charge of public institutions such as hospitals, dispensaries, clinics, homes, asylums, charitable and correctional institutions shall report promptly to the board the name, sex, age, nationality, race, marital state and address of every patient under observation suffering from venereal diseases in any form, stating the name, character, stage and duration of the infection, and, if obtainable, the date and source of contracting the same.

### **VT ST T. 18 § 1102. Taking blood samples**

A practitioner of medicine and surgery or osteopathy attending a pregnant woman shall take samples of blood of such woman, if possible prior to the third month of gestation, and submit same to a laboratory approved by the board for a standard serological test for syphilis. Every other person permitted by law to take blood tests shall similarly cause a sample of blood of a pregnant woman attended by him or her to be taken by a duly licensed practitioner of medicine and surgery or osteopathy and submit it to a laboratory approved by the board for a standard serological test for syphilis.

### **VT ST T. 18 § 1103. Birth certificate; serological test**

A person required by section 5071 of this title to file a certificate of birth shall state on the certificate whether a blood test for syphilis has been made upon a sample of blood taken from the woman who bore the child named in the certificate and if so shall state the date on which the test was made. In case no such blood test has been made such fact shall be stated in the certificate with the reason why such test has not been made. In no event shall the birth certificate state the result of the serological test for syphilis made pursuant to the provisions of this section and section 1102 of this title.

### **VT ST T. 18 § 1104. Serological test, definition**

A standard serological test shall be a test for syphilis approved by the board and shall be performed on request by the state laboratory or at a laboratory approved for this purpose by the board.

### **VT ST T. 18 § 1105. Marrying when infected with venereal disease**

A person, having been told by a physician that he or she was infected with gonorrhea or syphilis in a stage which is or may become communicable to a marital partner, or knowing that he or she is so infected, who marries, without assurance and certification from a legally qualified practitioner of medicine and surgery or osteopathy that he or she is free from such disease in a stage which is or may become communicable to the marital partner shall be imprisoned not less than two years or fined not less than \$500.00, or both.

### **VT ST T. 18 § 1106. Sexual intercourse when infected with venereal disease**

A person who has sexual intercourse while knowingly infected with gonorrhea or syphilis in a communicable stage shall be imprisoned not more than two years or fined not more than \$500.00, or both.

### **VT ST T. 13 § 3256. Testing for infectious diseases**

(b) The victim of an offense involving a sexual act may obtain an order from the criminal or family division of the superior court in which the offender was convicted of the offense, or was adjudicated delinquent, requiring that the offender be tested for the presence of the etiologic agent for acquired immune deficiency syndrome (AIDS) and other sexually-transmitted diseases, including gonorrhea, herpes, chlamydia, and syphilis. If requested by the victim, the state's attorney shall petition the court on behalf of the victim for an order under this section. For the purposes of this section, "offender" includes a juvenile adjudicated a delinquent.

(c) For purposes of this section, "sexual act" means a criminal offense:

- (1) where the underlying conduct of the offender constitutes a sexual act as defined in section 3251 of this title; and
- (2) which creates a risk of transmission of the etiologic agent for AIDS to the victim as determined by the federal Centers for Disease Control and Prevention.

- (d) If the court determines that the offender was convicted or adjudicated of a crime involving a sexual act with the victim, the court shall order the test to be administered by the department of health in accordance with applicable law. If appropriate under the circumstances, the court may include in its order a requirement for follow-up testing of the offender. An order for follow-up testing shall be terminated if the offender's conviction is overturned. A sample taken pursuant to this section shall be used solely for purposes of this section. All costs of testing the offender shall, if not otherwise funded, be paid by the department of public safety.
- (e) The results of the offender's test shall be disclosed only to the offender and the victim.
- (f) If an offender who is subject to an order pursuant to subsection (c) of this section refuses to comply with the order, the victim, or state's attorney on behalf of the victim, may seek a civil contempt order pursuant to 12 V.S.A. chapter 5.
- (g) After arraignment, a defendant who is charged with an offense involving a sexual act may offer to be tested for the presence of the etiologic agent for acquired immune deficiency syndrome (AIDS) and other sexually-transmitted diseases, including gonorrhea, herpes, chlamydia, and syphilis. Such testing shall follow the same procedures set forth for testing an offender who is subject to an order pursuant to subsection (c) of this section. The defendant's offer to be tested after arraignment shall not be used as evidence at the defendant's trial. If the defendant is subsequently convicted of an offense involving a sexual act, the court may consider the offender's offer for testing as a mitigating factor.
- (h) Upon request of the victim at any time after the commission of a crime involving a sexual act under subsection (b) of this section, the state shall provide any of the following services to the victim:
- (1) counseling regarding human immunodeficiency virus (HIV);
  - (2) testing, which shall remain confidential unless otherwise provided by law, for HIV and other sexually-transmitted diseases, including gonorrhea, herpes, chlamydia, and syphilis;
  - (3) counseling by a medically-trained professional on the accuracy of the testing, and the risk of transmitting HIV and other sexually-transmitted diseases to the victim as a result of the crime involving a sexual act; and
  - (4) prophylaxis treatment, crisis counseling, and support services.
- (i) A victim who so requests shall receive monthly follow-up HIV testing for six months after the initial test.
- (j) The state shall provide funding for HIV or AIDS, or both, and sexual assault cross-training between sexual assault programs and HIV and AIDS service organizations.
- (k) The record of the court proceedings and test results pursuant to this section shall be sealed.
- (l) The court administrator's office shall develop and distribute forms to implement this section in connection with a criminal conviction or adjudication of delinquency.
- (m) The center for crime victims services shall be the primary coordinating agent for the services to be provided in subsections (g), (h) and (i) of this section.

## **VT ST T. 18 § 4226. Minors; treatment; consent**

- (a) If a minor 12 years of age or older is suspected either (1) to be dependent upon regulated drugs as defined in section 4201 of this title, or (2) to have venereal disease or (3) to be an alcoholic as defined in section 8401 of this title, and the finding of such dependency or disease or alcoholism is verified by a licensed physician, the minor may give (1) his or her consent to medical treatment and hospitalization and, (2) in the case of a drug dependent or alcoholic person, non-medical inpatient or outpatient treatment at a program approved by the agency of human services to provide treatment for drug dependency or alcoholism if deemed necessary by the examining physician for diagnosis or treatment of such dependency or disease or alcoholism. Consent under this section shall not be subject to disaffirmance due to minority of the person consenting. The consent of the parent or legal guardian of a minor consenting under this section shall not be necessary to authorize care as described in this subsection.
- (b) The parent, parents or legal guardian shall be notified by the physician if the condition of a minor child requires immediate hospitalization as the result of drug usage, alcoholism or for the treatment of a venereal disease.

## **VIRGINIA**

### **VA ST § 18.2-67.4:1. Infected sexual battery; penalty**

- A. Any person who, knowing he is infected with HIV, syphilis, or hepatitis B, has sexual intercourse, cunnilingus, fellatio, anallingus or anal intercourse with the intent to transmit the infection to another person is guilty of a Class 6 felony.
- B. Any person who, knowing he is infected with HIV, syphilis, or hepatitis B, has sexual intercourse, cunnilingus, fellatio, anallingus or anal intercourse with another person without having previously disclosed the existence of his infection to the other person is guilty of a Class 1 misdemeanor.
- C. "HIV" means the human immunodeficiency virus or any other related virus that causes acquired immunodeficiency syndrome (AIDS).

Nothing in this section shall prevent the prosecution of any other crime against persons under Chapter 4 (§ 18.2-30 et seq.) of this title. Any person charged with a violation of this section alleging he is infected with HIV shall be subject to the testing provisions of § 18.2-62.

### **VA ST § 32.1-325. Board to submit plan for medical assistance services...**

- A. The Board, subject to the approval of the Governor, is authorized to prepare, amend from time to time, and submit to the U.S. Secretary of Health and Human Services a state plan for medical assistance services pursuant to Title XIX of the United States Social Security Act and any amendments thereto. The Board shall include in such plan:
1. A provision for payment of medical assistance on behalf of individuals, up to the age of 21, placed in foster homes or private institutions by private, nonprofit agencies licensed as child-placing agencies by the Department of Social Services or placed through state and local subsidized adoptions to the extent permitted under federal statute;
  2. A provision for determining eligibility for benefits for medically needy individuals which disregards from countable resources an amount not in excess of \$3,500 for the individual and an amount not in excess of \$3,500 for his spouse when such resources have been set aside to meet the burial expenses of the individual or his spouse. The amount disregarded shall be reduced by (i) the face value of life

insurance on the life of an individual owned by the individual or his spouse if the cash surrender value of such policies has been excluded from countable resources and (ii) the amount of any other revocable or irrevocable trust, contract, or other arrangement specifically designated for the purpose of meeting the individual's or his spouse's burial expenses;

3. A requirement that, in determining eligibility, a home shall be disregarded. For those medically needy persons whose eligibility for medical assistance is required by federal law to be dependent on the budget methodology for Aid to Families with Dependent Children, a home means the house and lot used as the principal residence and all contiguous property. For all other persons, a home shall mean the house and lot used as the principal residence, as well as all contiguous property, as long as the value of the land, exclusive of the lot occupied by the house, does not exceed \$5,000. In any case in which the definition of home as provided here is more restrictive than that provided in the state plan for medical assistance services in Virginia as it was in effect on January 1, 1972, then a home means the house and lot used as the principal residence and all contiguous property essential to the operation of the home regardless of value;
4. A provision for payment of medical assistance on behalf of individuals up to the age of 21, who are Medicaid eligible, for medically necessary stays in acute care facilities in excess of 21 days per admission;
5. A provision for deducting from an institutionalized recipient's income an amount for the maintenance of the individual's spouse at home;
6. A provision for payment of medical assistance on behalf of pregnant women which provides for payment for inpatient postpartum treatment in accordance with the medical criteria outlined in the most current version of or an official update to the "Guidelines for Perinatal Care" prepared by the American Academy of Pediatrics and the American College of Obstetricians and Gynecologists or the "Standards for Obstetric-Gynecologic Services" prepared by the American College of Obstetricians and Gynecologists. Payment shall be made for any postpartum home visit or visits for the mothers and the children which are within the time periods recommended by the attending physicians in accordance with and as indicated by such Guidelines or Standards. For the purposes of this subdivision, such Guidelines or Standards shall include any changes thereto within six months of the publication of such Guidelines or Standards or any official amendment thereto;
7. A provision for the payment for family planning services on behalf of women who were Medicaid-eligible for prenatal care and delivery as provided in this section at the time of delivery. Such family planning services shall begin with delivery and continue for a period of 24 months, if the woman continues to meet the financial eligibility requirements for a pregnant woman under Medicaid. For the purposes of this section, family planning services shall not cover payment for abortion services and no funds shall be used to perform, assist, encourage or make direct referrals for abortions;
8. A provision for payment of medical assistance for high-dose chemotherapy and bone marrow transplants on behalf of individuals over the age of 21 who have been diagnosed with lymphoma, breast cancer, myeloma, or leukemia and have been determined by the treating health care provider to have a performance status sufficient to proceed with such high-dose chemotherapy and bone marrow transplant. Appeals of these cases shall be handled in accordance with the Department's expedited appeals process;
9. A provision identifying entities approved by the Board to receive applications and to determine eligibility for medical assistance, which shall include a requirement that such entities obtain accurate contact information, including the best available address and telephone number, from each applicant for medical assistance, to the extent required by federal law and regulations;
10. A provision for breast reconstructive surgery following the medically necessary removal of a breast for any medical reason. Breast reductions shall be covered, if prior authorization has been obtained, for all medically necessary indications. Such procedures shall be considered noncosmetic;

11. A provision for payment of medical assistance for annual pap smears;
12. A provision for payment of medical assistance services for prostheses following the medically necessary complete or partial removal of a breast for any medical reason;
13. A provision for payment of medical assistance which provides for payment for 48 hours of inpatient treatment for a patient following a radical or modified radical mastectomy and 24 hours of inpatient care following a total mastectomy or a partial mastectomy with lymph node dissection for treatment of disease or trauma of the breast. Nothing in this subdivision shall be construed as requiring the provision of inpatient coverage where the attending physician in consultation with the patient determines that a shorter period of hospital stay is appropriate;
14. A requirement that certificates of medical necessity for durable medical equipment and any supporting verifiable documentation shall be signed, dated, and returned by the physician, physician assistant, or nurse practitioner and in the durable medical equipment provider's possession within 60 days from the time the ordered durable medical equipment and supplies are first furnished by the durable medical equipment provider;
15. A provision for payment of medical assistance to (i) persons age 50 and over and (ii) persons age 40 and over who are at high risk for prostate cancer, according to the most recent published guidelines of the American Cancer Society, for one PSA test in a 12-month period and digital rectal examinations, all in accordance with American Cancer Society guidelines. For the purpose of this subdivision, "PSA testing" means the analysis of a blood sample to determine the level of prostate specific antigen;
16. A provision for payment of medical assistance for low-dose screening mammograms for determining the presence of occult breast cancer. Such coverage shall make available one screening mammogram to persons age 35 through 39, one such mammogram biennially to persons age 40 through 49, and one such mammogram annually to persons age 50 and over. The term "mammogram" means an X-ray examination of the breast using equipment dedicated specifically for mammography, including but not limited to the X-ray tube, filter, compression device, screens, film and cassettes, with an average radiation exposure of less than one rad mid-breast, two views of each breast;
17. A provision, when in compliance with federal law and regulation and approved by the Centers for Medicare & Medicaid Services (CMS), for payment of medical assistance services delivered to Medicaid-eligible students when such services qualify for reimbursement by the Virginia Medicaid program and may be provided by school divisions;
18. A provision for payment of medical assistance services for liver, heart and lung transplantation procedures for individuals over the age of 21 years when (i) there is no effective alternative medical or surgical therapy available with outcomes that are at least comparable; (ii) the transplant procedure and application of the procedure in treatment of the specific condition have been clearly demonstrated to be medically effective and not experimental or investigational; (iii) prior authorization by the Department of Medical Assistance Services has been obtained; (iv) the patient selection criteria of the specific transplant center where the surgery is proposed to be performed have been used by the transplant team or program to determine the appropriateness of the patient for the procedure;(v) current medical therapy has failed and the patient has failed to respond to appropriate therapeutic management; (vi) the patient is not in an irreversible terminal state; and (vii) the transplant is likely to prolong the patient's life and restore a range of physical and social functioning in the activities of daily living;
19. A provision for payment of medical assistance for colorectal cancer screening, specifically screening with an annual fecal occult blood test, flexible sigmoidoscopy or colonoscopy, or in appropriate circumstances radiologic imaging, in accordance with the most recently published recommendations established by the American College of Gastroenterology, in consultation with the American Cancer Society, for the ages, family histories, and frequencies referenced in such recommendations;
20. A provision for payment of medical assistance for custom ocular prostheses;

21. A provision for payment for medical assistance for infant hearing screenings and all necessary audiological examinations provided pursuant to § 32.1-64.1 using any technology approved by the United States Food and Drug Administration, and as recommended by the national Joint Committee on Infant Hearing in its most current position statement addressing early hearing detection and intervention programs. Such provision shall include payment for medical assistance for follow-up audiological examinations as recommended by a physician, physician assistant, nurse practitioner, or audiologist and performed by a licensed audiologist to confirm the existence or absence of hearing loss;
22. A provision for payment of medical assistance, pursuant to the Breast and Cervical Cancer Prevention and Treatment Act of 2000 (P.L. 106-354), for certain women with breast or cervical cancer when such women (i) have been screened for breast or cervical cancer under the Centers for Disease Control and Prevention (CDC) Breast and Cervical Cancer Early Detection Program established under Title XV of the Public Health Service Act; (ii) need treatment for breast or cervical cancer, including treatment for a precancerous condition of the breast or cervix; (iii) are not otherwise covered under creditable coverage, as defined in § 2701 (c) of the Public Health Service Act; (iv) are not otherwise eligible for medical assistance services under any mandatory categorically needy eligibility group; and (v) have not attained age 65. This provision shall include an expedited eligibility determination for such women;
23. A provision for the coordinated administration, including outreach, enrollment, re-enrollment and services delivery, of medical assistance services provided to medically indigent children pursuant to this chapter, which shall be called Family Access to Medical Insurance Security (FAMIS) Plus and the FAMIS Plan program in § 32.1-351. A single application form shall be used to determine eligibility for both programs;
24. A provision, when authorized by and in compliance with federal law, to establish a public-private long-term care partnership program between the Commonwealth of Virginia and private insurance companies that shall be established through the filing of an amendment to the state plan for medical assistance services by the Department of Medical Assistance Services. The purpose of the program shall be to reduce Medicaid costs for long-term care by delaying or eliminating dependence on Medicaid for such services through encouraging the purchase of private long-term care insurance policies that have been designated as qualified state long-term care insurance partnerships and may be used as the first source of benefits for the participant's long-term care. Components of the program, including the treatment of assets for Medicaid eligibility and estate recovery, shall be structured in accordance with federal law and applicable federal guidelines; and
25. A provision for the payment of medical assistance for otherwise eligible pregnant women during the first five years of lawful residence in the United States, pursuant to § 214 of the Children's Health Insurance Program Reauthorization Act of 2009 (P.L. 111-3).

B. In preparing the plan, the Board shall:

1. Work cooperatively with the State Board of Health to ensure that quality patient care is provided and that the health, safety, security, rights and welfare of patients are ensured.
2. Initiate such cost containment or other measures as are set forth in the appropriation act.
3. Make, adopt, promulgate and enforce such regulations as may be necessary to carry out the provisions of this chapter.
4. Examine, before acting on a regulation to be published in the Virginia Register of Regulations pursuant to § 2.2-4007.05, the potential fiscal impact of such regulation on local boards of social services. For regulations with potential fiscal impact, the Board shall share copies of the fiscal impact analysis with local boards of social services prior to submission to the Registrar. The fiscal impact analysis shall

include the projected costs/savings to the local boards of social services to implement or comply with such regulation and, where applicable, sources of potential funds to implement or comply with such regulation.

5. Incorporate sanctions and remedies for certified nursing facilities established by state law, in accordance with 42 C.F.R. § 488.400 et seq. "Enforcement of Compliance for Long-Term Care Facilities With Deficiencies."
6. On and after July 1, 2002, require that a prescription benefit card, health insurance benefit card, or other technology that complies with the requirements set forth in § 38.2-3407.4:2 be issued to each recipient of medical assistance services, and shall upon any changes in the required data elements set forth in subsection A of § 38.2-3407.4:2, either reissue the card or provide recipients such corrective information as may be required to electronically process a prescription claim.

- C. In order to enable the Commonwealth to continue to receive federal grants or reimbursement for medical assistance or related services, the Board, subject to the approval of the Governor, may adopt, regardless of any other provision of this chapter, such amendments to the state plan for medical assistance services as may be necessary to conform such plan with amendments to the United States Social Security Act or other relevant federal law and their implementing regulations or constructions of these laws and regulations by courts of competent jurisdiction or the United States Secretary of Health and Human Services.

In the event conforming amendments to the state plan for medical assistance services are adopted, the Board shall not be required to comply with the requirements of Article 2 (§ 2.2-4006 et seq.) of Chapter 40 of Title 2.2. However, the Board shall, pursuant to the requirements of § 2.2-4002, (i) notify the Registrar of Regulations that such amendment is necessary to meet the requirements of federal law or regulations or because of the order of any state or federal court, or (ii) certify to the Governor that the regulations are necessitated by an emergency situation. Any such amendments that are in conflict with the Code of Virginia shall only remain in effect until July 1 following adjournment of the next regular session of the General Assembly unless enacted into law.

- D. The Director of Medical Assistance Services is authorized to:

1. Administer such state plan and receive and expend federal funds therefor in accordance with applicable federal and state laws and regulations; and enter into all contracts necessary or incidental to the performance of the Department's duties and the execution of its powers as provided by law.
2. Enter into agreements and contracts with medical care facilities, physicians, dentists and other health care providers where necessary to carry out the provisions of such state plan. Any such agreement or contract shall terminate upon conviction of the provider of a felony. In the event such conviction is reversed upon appeal, the provider may apply to the Director of Medical Assistance Services for a new agreement or contract. Such provider may also apply to the Director for reconsideration of the agreement or contract termination if the conviction is not appealed, or if it is not reversed upon appeal.
3. Refuse to enter into or renew an agreement or contract, or elect to terminate an existing agreement or contract, with any provider who has been convicted of or otherwise pled guilty to a felony, or pursuant to Subparts A, B, and C of 42 C.F.R. Part 1002, and upon notice of such action to the provider as required by 42 C.F.R. § 1002.212.
4. Refuse to enter into or renew an agreement or contract, or elect to terminate an existing agreement or contract, with a provider who is or has been a principal in a professional or other corporation when such corporation has been convicted of or otherwise pled guilty to any violation of § 32.1-314, 32.1-

315, 32.1-316, or 32.1-317, or any other felony or has been excluded from participation in any federal program pursuant to 42 C.F.R. Part 1002.

5. Terminate or suspend a provider agreement with a home care organization pursuant to subsection E of § 32.1-162.13.

For the purposes of this subsection, “provider” may refer to an individual or an entity.

- E. In any case in which a Medicaid agreement or contract is terminated or denied to a provider pursuant to subsection D, the provider shall be entitled to appeal the decision pursuant to 42 C.F.R. § 1002.213 and to a post-determination or post-denial hearing in accordance with the Administrative Process Act (§ 2.2-4000 et seq.). All such requests shall be in writing and be received within 15 days of the date of receipt of the notice.

The Director may consider aggravating and mitigating factors including the nature and extent of any adverse impact the agreement or contract denial or termination may have on the medical care provided to Virginia Medicaid recipients. In cases in which an agreement or contract is terminated pursuant to subsection D, the Director may determine the period of exclusion and may consider aggravating and mitigating factors to lengthen or shorten the period of exclusion, and may reinstate the provider pursuant to 42 C.F.R. § 1002.215.

- F. When the services provided for by such plan are services which a marriage and family therapist, clinical psychologist, clinical social worker, professional counselor, or clinical nurse specialist is licensed to render in Virginia, the Director shall contract with any duly licensed marriage and family therapist, duly licensed clinical psychologist, licensed clinical social worker, licensed professional counselor or licensed clinical nurse specialist who makes application to be a provider of such services, and thereafter shall pay for covered services as provided in the state plan. The Board shall promulgate regulations which reimburse licensed marriage and family therapists, licensed clinical psychologists, licensed clinical social workers, licensed professional counselors and licensed clinical nurse specialists at rates based upon reasonable criteria, including the professional credentials required for licensure.
- G. The Board shall prepare and submit to the Secretary of the United States Department of Health and Human Services such amendments to the state plan for medical assistance services as may be permitted by federal law to establish a program of family assistance whereby children over the age of 18 years shall make reasonable contributions, as determined by regulations of the Board, toward the cost of providing medical assistance under the plan to their parents.
- H. The Department of Medical Assistance Services shall:
  1. Include in its provider networks and all of its health maintenance organization contracts a provision for the payment of medical assistance on behalf of individuals up to the age of 21 who have special needs and who are Medicaid eligible, including individuals who have been victims of child abuse and neglect, for medically necessary assessment and treatment services, when such services are delivered by a provider which specializes solely in the diagnosis and treatment of child abuse and neglect, or a provider with comparable expertise, as determined by the Director.
  2. Amend the Medallion II waiver and its implementing regulations to develop and implement an exception, with procedural requirements, to mandatory enrollment for certain children between birth and age three certified by the Department of Behavioral Health and Developmental Services as eligible

for services pursuant to Part C of the Individuals with Disabilities Education Act (20 U.S.C. § 1471 et seq.).

3. Utilize, to the extent practicable, electronic funds transfer technology for reimbursement to contractors and enrolled providers for the provision of health care services under Medicaid and the Family Access to Medical Insurance Security Plan established under § 32.1-351.
- I. The Director is authorized to negotiate and enter into agreements for services rendered to eligible recipients with special needs. The Board shall promulgate regulations regarding these special needs patients, to include persons with AIDS, ventilator- dependent patients, and other recipients with special needs as defined by the Board.
- J. Except as provided in subdivision A 1 of § 2.2-4345, the provisions of the Virginia Public Procurement Act (§ 2.2-4300 et seq.) shall not apply to the activities of the Director authorized by subsection I of this section. Agreements made pursuant to this subsection shall comply with federal law and regulation.

### **VA ST § 32.1-36. Reports by physicians and laboratory directors,**

- A. Every physician practicing in this Commonwealth who shall diagnose or reasonably suspect that any patient of his has any disease required by the Board to be reported and every director of any laboratory doing business in this Commonwealth that performs any test whose results indicate the presence of any such disease shall make a report within such time and in such manner as may be prescribed by regulations of the Board. Any such report involving a disease that such physician or laboratory director has reason to believe may be caused by exposure to an agent or substance that has been or may be used as a weapon shall be reported directly to the Commissioner or his designee using an emergency response system maintained by the Department and operated twenty-four hours a day.
- B. Any physician who diagnoses a venereal disease in a child twelve years of age or under shall, in addition to the requirements of subsection A hereof, report the matter, in accordance with the provisions of § 63.2-1509, unless the physician reasonably believes that the infection was acquired congenitally or by a means other than sexual abuse.
- C. Any physician practicing in this Commonwealth shall report to the local health department the identity of any patient of his who has tested positive for exposure to human immunodeficiency virus as demonstrated by such test or tests as are approved by the Board for this purpose. However, there is no duty on the part of the physician to notify any third party other than the local health department of such test result, and a cause of action shall not arise from any failure to notify any other third party.
- D. Upon investigation by the local health department of a patient reported pursuant to subsection A, the Commissioner may, to the extent permitted by law, disclose the patient's identity and disease to the patient's employer if the Commissioner determines that (i) the patient's employment responsibilities require contact with the public and (ii) the nature of the patient's disease and nature of contact with the public constitutes a threat to the public health.

The patient's identity and disease state shall be confidential as provided in §§ 32.1-36.1 and 32.1-41. Any unauthorized disclosure of reports made pursuant to this section shall be subject to the penalties of § 32.1-27.

- E. Physicians and laboratory directors may voluntarily report additional information at the request of the Department of Health for special surveillance or other epidemiological studies.
- F.
  1. Every laboratory located in this Commonwealth shall file a written report with the Department of its inventory of dangerous microbes and pathogens on an annual basis. The laboratory shall supplement this report upon any change in such inventory as prescribed by the Board or immediately if any microbes or pathogens cannot be accounted for within twenty-four hours.
  2. Except as provided in this subsection, a report submitted pursuant to this subsection shall be confidential and shall not be a public record pursuant to the Freedom of Information Act (§ 2.2-3700 et seq.). The Department shall cooperate with and may share information submitted to it pursuant to this subsection with the United States Centers for Disease Control and Prevention, and state and federal law-enforcement agencies in any investigation involving the release, theft or loss of a dangerous microbe or pathogen required to be reported under this subsection.
  3. Any unauthorized disclosure of reports made pursuant to this subsection shall be subject to the penalties of § 32.1-27.

### **VA ST § 32.1-55. Definition**

As used in this article, “venereal disease” includes syphilis, gonorrhea, chancroid, granuloma inguinale, lymphogranuloma venereum and any other sexually transmittable disease determined by the Board to be dangerous to the public health.

### **VA ST § 32.1-56. Information to be provided patients**

It shall be the duty of every physician or other person who examines or treats a person having a venereal disease to provide such person with information about the disease, including, as a minimum, the nature of the disease, methods of treatment, measures used in preventing the spread of such disease, and the necessity of tests to ensure that a cure has been accomplished.

### **VA ST § 32.1-57. Examination, testing and treatment; failure to comply...**

- A. A local health director may require any person suspected of being infected with any venereal disease to submit to examination, testing and treatment if necessary.
- B. If any such person refuses to submit to an examination, testing or treatment or to continue treatment until found to be cured by proper test, the local health director may apply to the appropriate circuit court for an order compelling such examination, testing or treatment. Any person willfully failing to comply with such order shall be punishable as for contempt of court.
- C. If a person infected with venereal disease is required by the local health director to receive treatment therefor and such person receives such treatment from the local health department, no fee shall be charged.

### **VA ST § 32.1-58. Persons convicted of certain crimes to be examined,...**

Each person convicted of a violation of § 18.2-346 or § 18.2-361 shall be examined and tested for venereal disease and treated if necessary.

### **VA ST § 32.1-59. Examination and treatment in certain institutions**

Every person admitted to any state correctional institution and every person admitted to a state hospital or training center operated by the Department of Behavioral Health and Developmental Services shall be examined and tested for venereal disease. If the person is found to be infected with a venereal disease, the person in charge of such institution or state hospital or training center shall promptly provide treatment and shall report such case as provided in § 32.1-37.

## WASHINGTON

### WA ST 43.70.665. Early detection breast and cervical cancer screening...

- (1) The legislature finds that Washington state has the highest incidence of breast cancer in the nation. Despite this, mortality rates from breast cancer have declined due largely to early screening and detection. Invasive cervical cancer is the most preventable type of cancer. The Pap test, used to detect early signs of this disease, has been called “medicine's most successful screening test.” Applied consistently, invasive cervical cancer could nearly be eliminated. The legislature further finds that increasing access to breast and cervical cancer screening is critical to reducing incidence and mortality rates, and eliminating the disparities of this disease in women in Washington state. Furthermore, the legislature finds there is a need for a permanent program providing early detection and screening to the women and families of Washington state.

It is the intent of the legislature to establish an early detection breast and cervical cancer screening program as a voluntary screening program directed at reducing mortalities through early detection to be offered to eligible women only as funds are available.

- (2) As used in this section:
  - (a) “Eligible woman” means a woman who is age forty to sixty-four, and whose income is at or below two hundred fifty percent of the federal poverty level, as published annually by the federal department of health and human services. Priority enrollment shall be given to women as defined by the federal national breast and cervical cancer early detection program, under P.L. 101-354.
  - (b) “Approved providers” means those state-supported health providers, radiology facilities, and cytological laboratories that are recognized by the department as meeting the minimum program policies and procedures adopted by the department to qualify under the federal national breast and cervical cancer early detection program, and are designated as eligible for funding by the department.
  - (c) “Comprehensive” means a screening program that focuses on breast and cervical cancer screening as a preventive health measure, and includes diagnostic and case management services.
- (3) The department of health is authorized to administer a state-supported early detection breast and cervical cancer screening program to assist eligible women with preventive health services. To the extent of available funding, eligible women may be enrolled in the early detection breast and cervical cancer screening program and additional eligible women may be enrolled to the extent that grants and contributions from community sources provide sufficient funds for expanding the program.
- (4) Funds appropriated for the state program shall be used only to operate early detection breast and cervical cancer screening programs that have been approved by the department, or to increase access to existing state-approved programs, and shall not supplant federally supported breast and cervical cancer early detection programs.
- (5) Enrollment in the early detection breast and cervical cancer screening program shall not result in expenditures that exceed the amount that has been appropriated for the program in the operating budget. If it appears that continued enrollment will result in expenditures exceeding the appropriated level for a particular fiscal year, the department may freeze new enrollment in the program. Nothing in this section prevents the department from continuing enrollment in the program if there are adequate private or public funds in addition to those appropriated in the biennial budget to support the cost of such enrollment.

(6) The department shall establish a medical advisory committee composed of interested medical professionals and consumer liaisons with expertise in a variety of areas relevant to breast and cervical health to provide expert medical advice and guidance. The medical advisory committee shall address national, state, and local concerns regarding best practices in the field of early prevention and detection for breast and cervical cancer and assist the early detection breast and cervical cancer screening program in implementing program policy that follows the best practices of high quality health care for clinical, diagnostic, pathologic, radiological, and oncology services.

#### **WA ST 70.02.010. Definitions (Effective July 1, 2014)**

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

- (1) "Admission" has the same meaning as in RCW 71.05.020.
- (2) "Audit" means an assessment, evaluation, determination, or investigation of a health care provider by a person not employed by or affiliated with the provider to determine compliance with:
  - (a) Statutory, regulatory, fiscal, medical, or scientific standards;
  - (b) A private or public program of payments to a health care provider; or
  - (c) Requirements for licensing, accreditation, or certification.
- (2) "Commitment" has the same meaning as in RCW 71.05.020.
- (3) "Custody" has the same meaning as in RCW 71.05.020.
- (4) "Deidentified" means health information that does not identify an individual and with respect to which there is no reasonable basis to believe that the information can be used to identify an individual.
- (5) "Department" means the department of social and health services.
- (6) "Designated mental health professional" has the same meaning as in RCW 71.05.020 or 71.34.020, as applicable.
- (7) "Detention" or "detain" has the same meaning as in RCW 71.05.020.
- (8) "Directory information" means information disclosing the presence, and for the purpose of identification, the name, location within a health care facility, and the general health condition of a particular patient who is a patient in a health care facility or who is currently receiving emergency health care in a health care facility.
- (9) "Discharge" has the same meaning as in RCW 71.05.020.
- (10) "Evaluation and treatment facility" has the same meaning as in RCW 71.05.020 or 71.34.020, as applicable.
- (11) "Federal, state, or local law enforcement authorities" means an officer of any agency or authority in the United States, a state, a tribe, a territory, or a political subdivision of a state, a tribe, or a territory who is

empowered by law to: (a) Investigate or conduct an official inquiry into a potential criminal violation of law; or (b) prosecute or otherwise conduct a criminal proceeding arising from an alleged violation of law.

- (12) "General health condition" means the patient's health status described in terms of "critical," "poor," "fair," "good," "excellent," or terms denoting similar conditions.
- (13) "Health care" means any care, service, or procedure provided by a health care provider:
- (b) To diagnose, treat, or maintain a patient's physical or mental condition; or
  - (c) That affects the structure or any function of the human body.
- (14) "Health care facility" means a hospital, clinic, nursing home, laboratory, office, or similar place where a health care provider provides health care to patients.
- (15) "Health care information" means any information, whether oral or recorded in any form or medium, that identifies or can readily be associated with the identity of a patient and directly relates to the patient's health care, including a patient's deoxyribonucleic acid and identified sequence of chemical base pairs. The term includes any required accounting of disclosures of health care information.
- (16) "Health care operations" means any of the following activities of a health care provider, health care facility, or third-party payor to the extent that the activities are related to functions that make an entity a health care provider, a health care facility, or a third-party payor:
- (b) Conducting: Quality assessment and improvement activities, including outcomes evaluation and development of clinical guidelines, if the obtaining of generalizable knowledge is not the primary purpose of any studies resulting from such activities; population-based activities relating to improving health or reducing health care costs, protocol development, case management and care coordination, contacting of health care providers and patients with information about treatment alternatives; and related functions that do not include treatment;
  - (c) Reviewing the competence or qualifications of health care professionals, evaluating practitioner and provider performance and third-party payor performance, conducting training programs in which students, trainees, or practitioners in areas of health care learn under supervision to practice or improve their skills as health care providers, training of nonhealth care professionals, accreditation, certification, licensing, or credentialing activities;
  - (d) Underwriting, premium rating, and other activities relating to the creation, renewal, or replacement of a contract of health insurance or health benefits, and ceding, securing, or placing a contract for reinsurance of risk relating to claims for health care, including stop-loss insurance and excess of loss insurance, if any applicable legal requirements are met;
  - (e) Conducting or arranging for medical review, legal services, and auditing functions, including fraud and abuse detection and compliance programs;
  - (f) Business planning and development, such as conducting cost-management and planning-related analyses related to managing and operating the health care facility or third-party payor, including formulary development and administration, development, or improvement of methods of payment or coverage policies; and
  - (g) Business management and general administrative activities of the health care facility, health care provider, or third-party payor including, but not limited to:

- i. Management activities relating to implementation of and compliance with the requirements of this chapter;
  - ii. Customer service, including the provision of data analyses for policy holders, plan sponsors, or other customers, provided that health care information is not disclosed to such policy holder, plan sponsor, or customer;
  - iii. Resolution of internal grievances;
  - iv. The sale, transfer, merger, or consolidation of all or part of a health care provider, health care facility, or third-party payor with another health care provider, health care facility, or third-party payor or an entity that following such activity will become a health care provider, health care facility, or third-party payor, and due diligence related to such activity; and
- (17) Consistent with applicable legal requirements, creating deidentified health care information or a limited dataset for the benefit of the health care provider, health care facility, or third-party payor.
- (18) “Health care provider” means a person who is licensed, certified, registered, or otherwise authorized by the law of this state to provide health care in the ordinary course of business or practice of a profession.
- (19) “Human immunodeficiency virus” or “HIV” has the same meaning as in RCW 70.24.017.
- (20) “Imminent” has the same meaning as in RCW 71.05.020.
- (21) “Information and records related to mental health services” means a type of health care information that relates to all information and records, including mental health treatment records, compiled, obtained, or maintained in the course of providing services by a mental health service agency, as defined in this section. This may include documents of legal proceedings under chapter 71.05, 71.34, or 10.77 RCW, or somatic health care information. For health care information maintained by a hospital as defined in RCW 70.41.020 or a health care facility or health care provider that participates with a hospital in an organized health care arrangement defined under federal law, “information and records related to mental health services” is limited to information and records of services provided by a mental health professional or information and records of services created by a hospital-operated community mental health program as defined in RCW 71.24.025(6).
- (22) “Information and records related to sexually transmitted diseases” means a type of health care information that relates to the identity of any person upon whom an HIV antibody test or other sexually transmitted infection test is performed, the results of such tests, and any information relating to diagnosis of or treatment for any confirmed sexually transmitted infections.
- (23) “Institutional review board” means any board, committee, or other group formally designated by an institution, or authorized under federal or state law, to review, approve the initiation of, or conduct periodic review of research programs to assure the protection of the rights and welfare of human research subjects.
- (24) “Legal counsel” has the same meaning as in RCW 71.05.020.
- (25) “Local public health officer” has the same meaning as in RCW 70.24.017.
- (26) “Maintain,” as related to health care information, means to hold, possess, preserve, retain, store, or control that information.

- (27) “Mental health professional” has the same meaning as in RCW 71.05.020.
- (28) “Mental health service agency” means a public or private agency that provides services to persons with mental disorders as defined under RCW 71.05.020 or 71.34.020 and receives funding from public sources. This includes evaluation and treatment facilities as defined in RCW 71.34.020, community mental health service delivery systems, or community mental health programs, as defined in RCW 71.24.025, and facilities conducting competency evaluations and restoration under chapter 10.77 RCW.
- (29) “Mental health treatment records” include registration records, as defined in RCW 71.05.020, and all other records concerning persons who are receiving or who at any time have received services for mental illness, which are maintained by the department, by regional support networks and their staff, and by treatment facilities. “Mental health treatment records” include mental health information contained in a medical bill including, but not limited to, mental health drugs, a mental health diagnosis, provider name, and dates of service stemming from a medical service. “Mental health treatment records” do not include notes or records maintained for personal use by a person providing treatment services for the department, regional support networks, or a treatment facility if the notes or records are not available to others.
- (30) “Minor” has the same meaning as in RCW 71.34.020.
- (31) “Parent” has the same meaning as in RCW 71.34.020.
- (32) “Patient” means an individual who receives or has received health care. The term includes a deceased individual who has received health care.
- (33) “Payment” means:
- (a) The activities undertaken by:
    - i. A third-party payor to obtain premiums or to determine or fulfill its responsibility for coverage and provision of benefits by the third-party payor; or
    - ii. A health care provider, health care facility, or third-party payor, to obtain or provide reimbursement for the provision of health care; and
  - (b) The activities in (a) of this subsection that relate to the patient to whom health care is provided and that include, but are not limited to:
    - i. Determinations of eligibility or coverage, including coordination of benefits or the determination of cost-sharing amounts, and adjudication or subrogation of health benefit claims;
    - ii. Risk adjusting amounts due based on enrollee health status and demographic characteristics;
    - iii. Billing, claims management, collection activities, obtaining payment under a contract for reinsurance, including stop-loss insurance and excess of loss insurance, and related health care data processing;
    - iv. Review of health care services with respect to medical necessity, coverage under a health plan, appropriateness of care, or justification of charges;
    - v. Utilization review activities, including precertification and preauthorization of services, and concurrent and retrospective review of services; and

vi. Disclosure to consumer reporting agencies of any of the following health care information relating to collection of premiums or reimbursement:

- (A) Name and address;
- (B) Date of birth;
- (C) Social security number;
- (D) Payment history;
- (E) Account number; and
- (F) Name and address of the health care provider, health care facility, and/or third-party payor.

- (34) "Person" means an individual, corporation, business trust, estate, trust, partnership, association, joint venture, government, governmental subdivision or agency, or any other legal or commercial entity.
- (35) "Professional person" has the same meaning as in RCW 71.05.020.
- (36) "Psychiatric advanced registered nurse practitioner" has the same meaning as in RCW 71.05.020.
- (37) "Reasonable fee" means the charges for duplicating or searching the record, but shall not exceed sixty-five cents per page for the first thirty pages and fifty cents per page for all other pages. In addition, a clerical fee for searching and handling may be charged not to exceed fifteen dollars. These amounts shall be adjusted biennially in accordance with changes in the consumer price index, all consumers, for Seattle-Tacoma metropolitan statistical area as determined by the secretary of health. However, where editing of records by a health care provider is required by statute and is done by the provider personally, the fee may be the usual and customary charge for a basic office visit.
- (38) "Release" has the same meaning as in RCW 71.05.020.
- (39) "Resource management services" has the same meaning as in RCW 71.05.020.
- (40) "Serious violent offense" has the same meaning as in RCW 71.05.020.
- (41) "Sexually transmitted infection" or "sexually transmitted disease" has the same meaning as "sexually transmitted disease" in RCW 70.24.017.
- (42) "Test for a sexually transmitted disease" has the same meaning as in RCW 70.24.017.
- (43) "Third-party payor" means an insurer regulated under Title 48 RCW authorized to transact business in this state or other jurisdiction, including a health care service contractor, and health maintenance organization; or an employee welfare benefit plan, excluding fitness or wellness plans; or a state or federal health benefit program.
- (44) "Treatment" means the provision, coordination, or management of health care and related services by one or more health care providers or health care facilities, including the coordination or management of health care by a health care provider or health care facility with a third party; consultation between health care providers or health care facilities relating to a patient; or the referral of a patient for health care from one health care provider or health care facility to another.

### **WA ST 70.24.015. Legislative finding**

The legislature declares that sexually transmitted diseases constitute a serious and sometimes fatal threat to the public and individual health and welfare of the people of the state. The legislature finds that the incidence of sexually transmitted diseases is rising at an alarming rate and that these diseases result in significant social, health, and economic costs, including infant and maternal mortality, temporary and lifelong disability, and premature death. The legislature further finds that sexually transmitted diseases, by their nature, involve sensitive issues of privacy, and it is the intent of the legislature that all programs designed to deal with these diseases afford patients privacy, confidentiality, and dignity. The legislature also finds that medical knowledge and information about sexually transmitted diseases are rapidly changing. It is therefore the intent of the legislature to provide a program that is sufficiently flexible to meet emerging needs, deals efficiently and effectively with reducing the incidence of sexually transmitted diseases, and provides patients with a secure knowledge that information they provide will remain private and confidential.

### **WA ST 70.24.017. Definitions**

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter:

- (1) “Acquired immunodeficiency syndrome” or “AIDS” means the clinical syndrome of HIV-related illness as defined by the board of health by rule.
- (2) “Board” means the state board of health.
- (3) “Department” means the department of health, or any successor department with jurisdiction over public health matters.
- (4) “Health care provider” means any person who is a member of a profession under RCW 18.130.040 or other person providing medical, nursing, psychological, or other health care services regulated by the department of health.
- (5) “Health care facility” means a hospital, nursing home, neuropsychiatric or mental health facility, home health agency, hospice, child care agency, group care facility, family foster home, clinic, blood bank, blood center, sperm bank, laboratory, or other social service or health care institution regulated or operated by the department of health.
- (6) “HIV-related condition” means any medical condition resulting from infection with HIV including, but not limited to, seropositivity for HIV.
- (7) “Human immunodeficiency virus” or “HIV” means all HIV and HIV-related viruses which damage the cellular branch of the human immune or neurological systems and leave the infected person immunodeficient or neurologically impaired.
- (8) “Test for a sexually transmitted disease” means a test approved by the board by rule.
- (9) “Legal guardian” means a person appointed by a court to assume legal authority for another who has been found incompetent or, in the case of a minor, a person who has legal custody of the child.

- (10) “Local public health officer” means the officer directing the county health department or his or her designee who has been given the responsibility and authority to protect the health of the public within his or her jurisdiction.
- (11) “Person” includes any natural person, partnership, association, joint venture, trust, public or private corporation, or health facility.
- (12) “Release of test results” means a written authorization for disclosure of any sexually transmitted disease test result which is signed, dated, and which specifies to whom disclosure is authorized and the time period during which the release is to be effective.
- (13) “Sexually transmitted disease” means a bacterial, viral, fungal, or parasitic disease, determined by the board by rule to be sexually transmitted, to be a threat to the public health and welfare, and to be a disease for which a legitimate public interest will be served by providing for regulation and treatment. The board shall designate chancroid, gonorrhea, granuloma inguinale, lymphogranuloma venereum, genital herpes simplex, chlamydia, nongonococcal urethritis (NGU), trachomitis, genital human papilloma virus infection, syphilis, acquired immunodeficiency syndrome (AIDS), and human immunodeficiency virus (HIV) infection as sexually transmitted diseases, and shall consider the recommendations and classifications of the centers for disease control and other nationally recognized medical authorities in designating other diseases as sexually transmitted.
- (14) “State public health officer” means the secretary of health or an officer appointed by the secretary.

#### **WA ST 70.24.024. Orders for examinations and counseling--Restrictive...**

- (1) Subject to the provisions of this chapter, the state and local public health officers or their authorized representatives may examine and counsel or cause to be examined and counseled persons reasonably believed to be infected with or to have been exposed to a sexually transmitted disease.
- (2) Orders or restrictive measures directed to persons with a sexually transmitted disease shall be used as the last resort when other measures to protect the public health have failed, including reasonable efforts, which shall be documented, to obtain the voluntary cooperation of the person who may be subject to such an order. The orders and measures shall be applied serially with the least intrusive measures used first. The burden of proof shall be on the state or local public health officer to show that specified grounds exist for the issuance of the orders or restrictive measures and that the terms and conditions imposed are no more restrictive than necessary to protect the public health.
- (3) When the state or local public health officer within his or her respective jurisdiction knows or has reason to believe, because of direct medical knowledge or reliable testimony of others in a position to have direct knowledge of a person's behavior, that a person has a sexually transmitted disease and is engaging in specified conduct, as determined by the board by rule based upon generally accepted standards of medical and public health science, that endangers the public health, he or she shall conduct an investigation in accordance with procedures prescribed by the board to evaluate the specific facts alleged, if any, and the reliability and credibility of the person or persons providing such information and, if satisfied that the allegations are true, he or she may issue an order according to the following priority to:

- (a) Order a person to submit to a medical examination or testing, seek counseling, or obtain medical treatment for curable diseases, or any combination of these, within a period of time determined by the public health officer, not to exceed fourteen days.
  - (b) Order a person to immediately cease and desist from specified conduct which endangers the health of others by imposing such restrictions upon the person as are necessary to prevent the specified conduct that endangers the health of others only if the public health officer has determined that clear and convincing evidence exists to believe that such person has been ordered to report for counseling as provided in (a) of this subsection and continues to demonstrate behavior which endangers the health of others. Any restriction shall be in writing, setting forth the name of the person to be restricted and the initial period of time, not to exceed three months, during which the order shall remain effective, the terms of the restrictions, and such other conditions as may be necessary to protect the public health. Restrictions shall be imposed in the least-restrictive manner necessary to protect the public health.
- (4) (a) Upon the issuance of any order by the state or local public health officer or an authorized representative pursuant to subsection (3) of this section or RCW 70.24.340(4), such public health officer shall give written notice promptly, personally, and confidentially to the person who is the subject of the order stating the grounds and provisions of the order, including the factual bases therefor, the evidence relied upon for proof of infection and dangerous behavior, and the likelihood of repetition of such behaviors in the absence of such an order, and notifying the person who is the subject of the order that, if he or she contests the order, he or she may appear at a judicial hearing on the enforceability of the order, to be held in superior court. He or she may have an attorney appear on his or her behalf in the hearing at public expense, if necessary. The hearing shall be held within seventy-two hours of receipt of the notice, unless the person subject to the order agrees to comply. If the person contests the order, no invasive medical procedures shall be carried out prior to a hearing being held pursuant to this subsection. If the person does not contest the order within seventy-two hours of receiving it, and the person does not comply with the order within the time period specified for compliance with the order, the state or local public health officer may request a warrant be issued by the superior court to insure appearance at the hearing. The hearing shall be within seventy-two hours of the expiration date of the time specified for compliance with the original order. The burden of proof shall be on the public health officer to show by clear and convincing evidence that the specified grounds exist for the issuance of the order and for the need for compliance and that the terms and conditions imposed therein are no more restrictive than necessary to protect the public health. Upon conclusion of the hearing, the court shall issue appropriate orders affirming, modifying, or dismissing the order.
- (b) If the superior court dismisses the order of the public health officer, the fact that the order was issued shall be expunged from the records of the department or local department of health.
- (5) Any hearing conducted pursuant to this section shall be closed and confidential unless a public hearing is requested by the person who is the subject of the order, in which case the hearing will be conducted in open court. Unless in open hearing, any transcripts or records relating thereto shall also be confidential and may be sealed by the order of the court.

#### **WA ST 70.24.034. Detention--Grounds--Order--Hearing**

- (a) When the procedures of RCW 70.24.024 have been exhausted and the state or local public health officer, within his or her respective jurisdiction, knows or has reason to believe, because of medical information,

that a person has a sexually transmitted disease and that the person continues to engage in behaviors that present an imminent danger to the public health as defined by the board by rule based upon generally accepted standards of medical and public health science, the public health officer may bring an action in superior court to detain the person in a facility designated by the board for a period of time necessary to accomplish a program of counseling and education, excluding any coercive techniques or procedures, designed to get the person to adopt nondangerous behavior. In no case may the period exceed ninety days under each order. The board shall establish, by rule, standards for counseling and education under this subsection. The public health officer shall request the prosecuting attorney to file such action in superior court. During that period, reasonable efforts will be made in a noncoercive manner to get the person to adopt nondangerous behavior.

- (b) If an action is filed as outlined in subsection (1) of this section, the superior court, upon the petition of the prosecuting attorney, shall issue other appropriate court orders including, but not limited to, an order to take the person into custody immediately, for a period not to exceed seventy-two hours, and place him or her in a facility designated or approved by the board. The person who is the subject of the order shall be given written notice of the order promptly, personally, and confidentially, stating the grounds and provisions of the order, including the factual bases therefor, the evidence relied upon for proof of infection and dangerous behavior, and the likelihood of repetition of such behaviors in the absence of such an order, and notifying the person that if he or she refuses to comply with the order he or she may appear at a hearing to review the order and that he or she may have an attorney appear on his or her behalf in the hearing at public expense, if necessary. If the person contests testing or treatment, no invasive medical procedures shall be carried out prior to a hearing being held pursuant to subsection (3) of this section.
- (c) The hearing shall be conducted no later than forty-eight hours after the receipt of the order. The person who is subject to the order has a right to be present at the hearing and may have an attorney appear on his or her behalf in the hearing, at public expense if necessary. If the order being contested includes detention for a period of fourteen days or longer, the person shall also have the right to a trial by jury upon request. Upon conclusion of the hearing or trial by jury, the court shall issue appropriate orders.

The court may continue the hearing upon the request of the person who is subject to the order for good cause shown for no more than five additional judicial days. If a trial by jury is requested, the court, upon motion, may continue the hearing for no more than ten additional judicial days. During the pendency of the continuance, the court may order that the person contesting the order remain in detention or may place terms and conditions upon the person which the court deems appropriate to protect public health.

- (d) The burden of proof shall be on the state or local public health officer to show by clear and convincing evidence that grounds exist for the issuance of any court order pursuant to subsection (2) or (3) of this section. If the superior court dismisses the order, the fact that the order was issued shall be expunged from the records of the state or local department of health.
- (e) Any hearing conducted by the superior court pursuant to subsection (2) or (3) of this section shall be closed and confidential unless a public hearing is requested by the person who is the subject of the order, in which case the hearing will be conducted in open court. Unless in open hearing, any transcripts or records relating thereto shall also be confidential and may be sealed by order of the court.
- (f) Any order entered by the superior court pursuant to subsection (1) or (2) of this section shall impose terms and conditions no more restrictive than necessary to protect the public health.

### **WA ST 72.09.251. Communicable disease prevention guidelines**

- (1) The department shall develop and implement policies and procedures for the uniform distribution of communicable disease prevention guidelines to all corrections staff who, in the course of their regularly assigned job responsibilities, may come within close physical proximity to offenders with communicable diseases.
- (2) The guidelines shall identify special precautions necessary to reduce the risk of transmission of communicable diseases.
- (3) For the purposes of this section, “communicable disease” means sexually transmitted diseases, as defined in RCW 70.24.017, diseases caused by bloodborne pathogens, or any other illness caused by an infectious agent that can be transmitted from one person, animal, or object to another person by direct or indirect means including transmission via an intermediate host or vector, food, water, or air.

### **WA ST 74.09.659. Family planning waiver program request**

- a. The authority shall continue to submit applications for the family planning waiver program.
- b. The authority shall submit a request to the federal department of health and human services to amend the current family planning waiver program as follows:
  - i. Provide coverage for sexually transmitted disease testing and treatment;
  - ii. Return to the eligibility standards used in 2005 including, but not limited to, citizenship determination based on declaration or matching with federal social security databases, insurance eligibility standards comparable to 2005, and confidential service availability for minors and survivors of domestic and sexual violence; and
  - iii. By September 30, 2011, submit an application to increase income eligibility to two hundred fifty percent of the federal poverty level, to correspond with income eligibility for publicly funded maternity care services.

### **WA ST 70.24.105. Disclosure of HIV antibody test or testing or treatment...**

1. No person may disclose or be compelled to disclose the identity of any person who has investigated, considered, or requested a test or treatment for a sexually transmitted disease, except as authorized by this chapter.
2. No person may disclose or be compelled to disclose the identity of any person upon whom an HIV antibody test is performed, or the results of such a test, nor may the result of a test for any other sexually transmitted disease when it is positive be disclosed. This protection against disclosure of test subject, diagnosis, or treatment also applies to any information relating to diagnosis of or treatment for HIV infection and for any other confirmed sexually transmitted disease. The following persons, however, may receive such information:
  - (a) The subject of the test or the subject's legal representative for health care decisions in accordance with RCW 7.70.065, with the exception of such a representative of a minor child over fourteen years of age and otherwise competent;

- (b) Any person who secures a specific release of test results or information relating to HIV or confirmed diagnosis of or treatment for any other sexually transmitted disease executed by the subject or the subject's legal representative for health care decisions in accordance with RCW 7.70.065, with the exception of such a representative of a minor child over fourteen years of age and otherwise competent;
- (c) The state public health officer, a local public health officer, or the centers for disease control of the United States public health service in accordance with reporting requirements for a diagnosed case of a sexually transmitted disease;
- (d) A health facility or health care provider that procures, processes, distributes, or uses: (i) A human body part, tissue, or blood from a deceased person with respect to medical information regarding that person; (ii) semen, including that provided prior to March 23, 1988, for the purpose of artificial insemination; or (iii) blood specimens;
- (e) Any state or local public health officer conducting an investigation pursuant to RCW 70.24.024, provided that such record was obtained by means of court ordered HIV testing pursuant to RCW 70.24.340 or 70.24.024;
- (f) A person allowed access to the record by a court order granted after application showing good cause therefor. In assessing good cause, the court shall weigh the public interest and the need for disclosure against the injury to the patient, to the physician- patient relationship, and to the treatment services. Upon the granting of the order, the court, in determining the extent to which any disclosure of all or any part of the record of any such test is necessary, shall impose appropriate safeguards against unauthorized disclosure. An order authorizing disclosure shall: (i) Limit disclosure to those parts of the patient's record deemed essential to fulfill the objective for which the order was granted; (ii) limit disclosure to those persons whose need for information is the basis for the order; and (iii) include any other appropriate measures to keep disclosure to a minimum for the protection of the patient, the physician-patient relationship, and the treatment services, including but not limited to the written statement set forth in subsection (5) of this section;
- (g) Persons who, because of their behavioral interaction with the infected individual, have been placed at risk for acquisition of a sexually transmitted disease, as provided in RCW 70.24.022, if the health officer or authorized representative believes that the exposed person was unaware that a risk of disease exposure existed and that the disclosure of the identity of the infected person is necessary;
- (h) A law enforcement officer, firefighter, health care provider, health care facility staff person, department of correction's staff person, jail staff person, or other persons as defined by the board in rule pursuant to RCW 70.24.340(4), who has requested a test of a person whose bodily fluids he or she has been substantially exposed to, pursuant to RCW 70.24.340(4), if a state or local public health officer performs the test. If the requestor also requested that testing for bloodborne pathogens be conducted pursuant to RCW 70.24.340 and the state health or local health officer performs the tests, the requestor must also be informed of the results of those tests;
- (i) Claims management personnel employed by or associated with an insurer, health care service contractor, health maintenance organization, self-funded health plan, state-administered health care claims payer, or any other payer of health care claims where such disclosure is to be used solely for the prompt and accurate evaluation and payment of medical or related claims. Information released under this subsection shall be confidential and shall not be released or available to persons who are not involved in handling or determining medical claims payment; and
- (j) A department of social and health services worker, a child placing agency worker, or a guardian ad litem who is responsible for making or reviewing placement or case-planning decisions or recommendations to the court regarding a child, who is less than fourteen years of age, has a sexually transmitted disease, and is in the custody of the department of social and health services or a licensed child placing agency; this information may also be received by a person responsible for providing

residential care for such a child when the department of social and health services or a licensed child placing agency determines that it is necessary for the provision of child care services.

- (4) No person to whom the results of a test for a sexually transmitted disease have been disclosed pursuant to subsection (2) of this section may disclose the test results to another person except as authorized by that subsection.
- (5) The release of sexually transmitted disease information regarding an offender or detained person, except as provided in subsection (2)(e) of this section, shall be governed as follows:
  - (a) The sexually transmitted disease status of a department of corrections offender who has had a mandatory test conducted pursuant to RCW 70.24.340(1), 70.24.360, or 70.24.370 shall be made available by department of corrections health care providers and local public health officers to the department of corrections health care administrator or infection control coordinator of the facility in which the offender is housed. The information made available to the health care administrator or the infection control coordinator under this subsection (4)(a) shall be used only for disease prevention or control and for protection of the safety and security of the staff, offenders, and the public. The information may be submitted to transporting officers and receiving facilities, including facilities that are not under the department of corrections' jurisdiction according to the provisions of (d) and (e) of this subsection.
  - (b) The sexually transmitted disease status of a person detained in a jail who has had a mandatory test conducted pursuant to RCW 70.24.340(1), 70.24.360, or 70.24.370 shall be made available by the local public health officer to a jail health care administrator or infection control coordinator. The information made available to a health care administrator under this subsection (4)(b) shall be used only for disease prevention or control and for protection of the safety and security of the staff, offenders, detainees, and the public. The information may be submitted to transporting officers and receiving facilities according to the provisions of (d) and (e) of this subsection.
  - (c) Information regarding the sexually transmitted disease status of an offender or detained person is confidential and may be disclosed by a correctional health care administrator or infection control coordinator or local jail health care administrator or infection control coordinator only as necessary for disease prevention or control and for protection of the safety and security of the staff, offenders, and the public. Unauthorized disclosure of this information to any person may result in disciplinary action, in addition to the penalties prescribed in RCW 70.24.080 or any other penalties as may be prescribed by law.
  - (d) Notwithstanding the limitations on disclosure contained in (a), (b), and (c) of this subsection, whenever any member of a jail staff or department of corrections staff has been substantially exposed to the bodily fluids of an offender or detained person, then the results of any tests conducted pursuant to RCW 70.24.340(1), 70.24.360, or 70.24.370, shall be immediately disclosed to the staff person in accordance with the Washington Administrative Code rules governing employees' occupational exposure to bloodborne pathogens. Disclosure must be accompanied by appropriate counseling for the staff member, including information regarding follow-up testing and treatment. Disclosure shall also include notice that subsequent disclosure of the information in violation of this chapter or use of the information to harass or discriminate against the offender or detainee may result in disciplinary action, in addition to the penalties prescribed in RCW 70.24.080, and imposition of other penalties prescribed by law.
  - (e) The staff member shall also be informed whether the offender or detained person had any other communicable disease, as defined in RCW 72.09.251(3), when the staff person was substantially exposed to the offender's or detainee's bodily fluids.

- (f) The test results of voluntary and anonymous HIV testing or HIV-related condition may not be disclosed to a staff person except as provided in subsection (2) ( ) of this section and RCW 70.24.340(4). A health care administrator or infection control coordinator may provide the staff member with information about how to obtain the offender's or detainee's test results under subsection (2) ( ) of this section and RCW 70.24.340(4).
- (6) Whenever disclosure is made pursuant to this section, except for subsections (2)(a) and (6) of this section, it shall be accompanied by a statement in writing which includes the following or substantially similar language: "This information has been disclosed to you from records whose confidentiality is protected by state law. State law prohibits you from making any further disclosure of it without the specific written consent of the person to whom it pertains, or as otherwise permitted by state law. A general authorization for the release of medical or other information is NOT sufficient for this purpose." An oral disclosure shall be accompanied or followed by such a notice within ten days.
- (7) The requirements of this section shall not apply to the customary methods utilized for the exchange of medical information among health care providers in order to provide health care services to the patient, nor shall they apply within health care facilities where there is a need for access to confidential medical information to fulfill professional duties.
- (8) Upon request of the victim, disclosure of test results under this section to victims of sexual offenses under chapter 9A.44 RCW shall be made if the result is negative or positive. The county prosecuting attorney shall notify the victim of the right to such disclosure. Such disclosure shall be accompanied by appropriate counseling, including information regarding follow- up testing.

## WEST VIRGINIA

### WV ST § 16-2-11. Local board of health; powers and duties

a. Each local board of health created, established and operated pursuant to the provisions of this article shall:

- (1) Provide the following basic public health services and programs in accordance with state public health performance-based standards:
  - i. Community health promotion including assessing and reporting community health needs to improve health status, facilitating community partnerships including identifying the community's priority health needs, mobilization of a community around identified priorities and monitoring the progress of community health education services;
  - (b) Environmental health protection including the promoting and maintaining of clean and safe air, water, food and facilities and the administering of public health laws as specified by the commissioner as to general sanitation, the sanitation of public drinking water, sewage and wastewater, food and milk, and the sanitation of housing, institutions, and recreation; and
  - (c) Communicable or reportable disease prevention and control including disease surveillance, case investigation and follow-up, outbreak investigation, response to epidemics, and prevention and control of rabies, sexually transmitted diseases, vaccine preventable diseases, HIV/AIDS, tuberculosis and other communicable and reportable diseases;
- (2) Appoint a local health officer to serve at the will and pleasure of the local board of health with approval of the commissioner;
- (3) Submit a general plan of operation to the commissioner for approval, if it receives any state or federal money for health purposes. This program plan shall be submitted annually and comply with provisions of the local board of health standards administrative rule;
- (4) Provide equipment and facilities for the local health department that are in compliance with federal and state law;
- (5) Permit the commissioner to act by and through it, as needed. The commissioner may enforce all public health laws of this state, the rules and orders of the secretary, any county commission orders or municipal ordinances of the board's service area relating to public health, and the rules and orders of the local board within the service area of a local board. The commissioner may enforce these laws, rules and orders when, in the opinion of the commissioner, a public health emergency exists or when the local board fails or refuses to enforce public health laws and rules necessary to prevent and control the spread of a communicable or reportable disease dangerous to the public health. The expenses incurred shall be charged against the counties or municipalities concerned;
- (6) Deposit all moneys and collected fees into an account designated for local board of health purposes. The moneys for a municipal board of health shall be deposited with the municipal treasury in the service area. The moneys for a county board of health shall be deposited with the county treasury in the service area. The moneys for a combined local board of health shall be deposited in an account as designated in the plan of combination: Provided, That nothing contained in this subsection is intended to conflict with the provisions of article one, chapter sixteen of this code;
- (7) Submit vouchers or other instruments approved by the board and signed by the local health officer or designated representative to the county or municipal treasurer for payment of necessary and reasonable expenditures from the county or municipal public health funds: Provided, That a combined local board of health shall draw upon its public health funds account in the manner designated in the plan of combination;

- (8) Participate in audits, be in compliance with tax procedures required by the state and annually develop a budget for the next fiscal year;
- (9) Perform public health duties assigned by order of a county commission or by municipal ordinance consistent with state public health laws; and
- (10) Enforce the public health laws of this state and any other laws of this state applicable to the local board.

b. Each local board of health created, established and operated pursuant to the provisions of this article may:

- (1) Provide primary care services, clinical and categorical programs, and enhanced public health services;
- (2) Employ or contract with any technical, administrative, clerical or other persons, to serve as needed and at the will and pleasure of the local board of health. Staff and any contractors providing services to the board shall comply with applicable West Virginia certification and licensure requirements. Eligible staff employed by the board shall be covered by the rules of the division of personnel under section six, article ten, chapter twenty-nine of this code. However, any local board of health may, in the alternative and with the consent and approval of the appointing authority, establish and adopt a merit system for its eligible employees. The merit system may be similar to the state merit system and may be established by the local board by its order, subject to the approval of the appointing authority, adopting and making applicable to the local health department all, or any portion of any order, rule, standard, or compensation rate in effect in the state merit system as may be desired and as is properly applicable;
- (3) Adopt and promulgate and from time to time amend rules consistent with state public health laws and the rules of the West Virginia state department of health and human resources, that are necessary and proper for the protection of the general health of the service area and the prevention of the introduction, propagation and spread of disease. All rules shall be filed with the clerk of the county commission or the clerk or the recorder of the municipality or both and shall be kept by the clerk or recording officer in a separate book as public records;
- (4) Accept, receive and receipt for money or property from any federal, state or local governmental agency, from any other public source or from any private source, to be used for public health purposes or for the establishment or construction of public health facilities;
- (5) Assess, charge and collect fees for permits and licenses for the provision of public health services: Provided, That permits and licenses required for agricultural activities may not be assessed, charged or collected: Provided, however, That a local board of health may assess, charge and collect all of the expenses of inspection of the physical plant and facilities of any distributor, producer or pasteurizer of milk whose milk distribution, production or pasteurization facilities are located outside this state but who sells or distributes in the state, or transports, causes or permits to be transported into this state, milk or milk products for resale, use or consumption in the state and in the service area of the local board of health. A local board of health may not assess, charge and collect the expenses of inspection if the physical plant and facilities are regularly inspected by another agency of this state or its governmental subdivisions or by an agency of another state or its governmental subdivisions certified as an approved inspection agency by the commissioner. No more than one local board of health may act as the regular inspection agency of the physical plant and facilities; when two or more include an inspection of the physical plant and facilities in a regular schedule, the commissioner shall designate one as the regular inspection agency;
- (6) Assess, charge and collect fees for services provided by the local health department: Provided, That fees for services shall be submitted to and approved by the commissioner;
- (7) Contract for payment with any municipality, county or board of education for the provision of local health services or for the use of public health facilities. Any contract shall be in writing and permit

provision of services or use of facilities for a period not to exceed one fiscal year. The written contract may include provisions for annual renewal by agreement of the parties; and

(8) Retain and make available child safety car seats, collect rental and security deposit fees for the expenses of retaining and making available child safety car seats, and conduct public education activities concerning the use and preventing the misuse of child safety car seats: Provided, That this subsection is not intended to conflict with the provisions of section forty-six, article fifteen, chapter seventeen-c of this code: Provided, however, That any local board of health offering a child safety car seat program or employee or agent of a local board of health is immune from civil or criminal liability in any action relating to the improper use, malfunction or inadequate maintenance of the child safety car seat and in any action relating to the improper placement, maintenance or securing of a child in a child safety car seat.

c. The local boards of health are charged with protecting the health and safety, as well as promoting the interests of the citizens of West Virginia. All state funds appropriated by the Legislature for the benefit of local boards of health shall be used for provision of basic public health services.

### **WV ST § 16-3C-1. Definitions**

(a) "AIDS" means acquired immunodeficiency syndrome.

(b) "Bureau" means the Bureau for Public Health.

(c) "Commissioner" means the commissioner of the Bureau for Public Health.

(d) "Convicted" includes pleas of guilty and pleas of nolo contendere accepted by the court having jurisdiction of the criminal prosecution, a finding of guilty following a jury trial or a trial to a court and an adjudicated juvenile offender as defined in sections two and four, article one, chapter forty-nine of this code.

(e) "Department" means the State Department of Health and Human Resources.

(f) "Funeral director" has the same meaning ascribed to such term in section three, article six, chapter thirty of this code.

(g) "Funeral establishment" has the same meaning ascribed to that term in section three, article six, chapter thirty of this code.

(h) "HIV" means the human immunodeficiency virus identified as the causative agent of AIDS.

(i) "HIV-related test" means a test for the HIV antibody or antigen or any future valid test approved by the bureau, the federal drug administration or the Centers for Disease Control and Prevention.

(j) "Health facility" means a hospital, nursing home, physician's office, clinic, blood bank, blood center, sperm bank, laboratory or other health care institution.

(k) "Health care provider" means any physician, dentist, nurse, paramedic, psychologist or other person providing medical, dental, nursing, psychological or other health care services of any kind.

- (l) "Health Information Exchange" means the electronic movement of health-related information in accord with law and nationally recognized standards.
- (m) "High risk behavior" means behavior by a person including, but not limited to: (i) Unprotected sex with a person who is living with HIV; (ii) unprotected sex in exchange for money or drugs; unprotected sex with multiple partners; anonymous unprotected sex; or needle sharing; diagnosis of a sexually transmitted disease; or unprotected sex or sharing injecting equipment in a high HIV prevalence setting or with a person who is living with HIV.
- (n) "Medical or emergency responders" means paid or volunteer firefighters, law-enforcement officers, emergency medical technicians, paramedics, or other emergency service personnel, providers or entities acting within the usual course of their duties; good samaritans and other nonmedical and nonemergency personnel providing assistance in emergencies; funeral directors; health care providers; commissioner of the Bureau for Public Health; and all employees thereof and volunteers associated therewith.
- (o) "Patient" or "test subject" or "subject of the test" means the person upon whom a HIV test is performed, or the person who has legal authority to make health care decisions for the test subject.
- (p) "Permitted purpose" is a disclosure permitted by the Health Insurance Portability and Accountability Act of 1996 as amended, or a disclosure consented to or authorized by a patient or test subject.
- (q) "Person" includes any natural person, partnership, association, joint venture, trust, public or private corporation or health facility.
- (r) "Release of test results" means a permitted or authorized disclosure of HIV-related test results.
- (s) "Significant exposure" means:
- (1) Exposure to blood or body fluids through needlestick, instruments, sharps, surgery or traumatic events;  
or
  - (2) Exposure of mucous membranes to visible blood or body fluids, to which universal precautions apply according to the national Centers for Disease Control and Prevention, and laboratory specimens that contain HIV (e. g. suspensions of concentrated virus); or
  - (3) Exposure of skin to visible blood or body fluids, when the exposed skin is chapped, abraded or afflicted with dermatitis or the contact is prolonged or involving an extensive area.
- (t) "Source patient" means any person whose body fluids have been the source of a significant exposure to a medical or emergency responder.
- (u) "Targeted testing" means performing an HIV-related test for sub-populations at higher risk, typically defined on the basis of behavior, clinical or demographic characteristics.
- (v) "Victim" means the person or persons to whom transmission of bodily fluids from the perpetrator of the crimes of sexual abuse, sexual assault, incest or sexual molestation occurred or was likely to have occurred in the commission of such crimes.

## WV ST § 16-3C-2. Testing

- i. HIV-related testing on a voluntary basis should be recommended by any healthcare provider in a health facility as part of a routine screening for treatable conditions and as part of routine prenatal and perinatal care. A physician, dentist, nurse practitioner, nurse midwife, physician assistant or the commissioner may also request targeted testing for any of the following:
  - (1) When there is cause to believe that the test could be positive. Persons who engage in high risk behavior should be encouraged to be screened for HIV at least annually;
  - (2) When there is cause to believe that the test could provide information important in the care of the patient; or
  - (3) When there is cause to believe that the results of HIV-testing of samples of blood or body fluids from a source patient could provide information important in the care of medical or emergency responders or other persons identified in regulations proposed by the department for approval by the Legislature in accordance with the provisions of article three, chapter twenty- nine-a of this code: Provided, That the source patient whose blood or body fluids is being tested pursuant to this section must have come into contact with a medical or emergency responder or other person in such a way that a significant exposure has occurred;
  - (4) When there is no record of any HIV-related testing during pregnancy and the woman presents for labor and delivery.
- ii. A patient voluntarily consents to the test as follows:
  - (1) The patient is informed either orally or in writing that HIV-related testing will be performed as part of his or her routine care, that HIV-related testing is voluntary and that the patient may decline HIV-related testing (opt-out); or
  - (2) The patient is informed that the patient's general consent for medical care includes consent for HIV-related testing.
- iii. A patient refuses to consent to the test if a patient opts-out of HIV-related testing, the patient is informed when the health care provider in the provider's professional opinion believes HIV-related testing is recommended, and that HIV-related testing may be obtained anonymously at a local or county health department.
- iv. Any person seeking an HIV-related test in a local or county health department or other HIV test setting provided by the commissioner who wishes to remain anonymous has the right to do so, and to be provided written informed consent through use of a coded system with no linking of individual identity to the test request or results.
- v. No option to opt-out of HIV-related testing is required and the provisions of subsection (a) and (b) of this section do not apply for the following:
  - (1) A health care provider or health facility performing an HIV-related test on the donor or recipient when the health care provider or health facility procures, processes, distributes or uses a human body part (including tissue and blood or blood products) donated for a purpose specified under the uniform anatomical gift act, or for transplant recipients, or semen provided for the purpose of artificial insemination and such test is necessary to assure medical acceptability of a recipient or such gift or semen for the purposes intended;

- (2) The performance of an HIV-related test in documented bona fide medical emergencies, as determined by a treating physician taking into account the nature and extent of the exposure to another person, when the subject of the test is unable or unwilling to grant or withhold consent, and the test results are necessary for medical diagnostic purposes to provide appropriate emergency care or treatment to a medical or emergency responder, or any other person who has come into contact with a source patient in such a way that a significant exposure necessitates HIV-testing or to a source patient who is unable to consent in accordance with rules proposed by the department for approval by the Legislature in accordance with article three, chapter twenty-nine- a of this code: Provided, That necessary treatment may not be withheld pending HIV test results: Provided, however, That all sampling and HIV-testing of samples of blood and body fluids, without the opportunity for the source patient or patient's representative to opt-out of the testing, shall be through the use of a pseudonym and in accordance with rules proposed by the department for approval by the Legislature in accordance with article three, chapter twenty-nine-a of this code; or
- (3) The performance of an HIV-related test for the purpose of research if the testing is performed in a manner by which the identity of the test subject is not known and may not be retrieved by the researcher.

vi. Mandated testing:

- (1) The performance of any HIV-related testing that is or becomes mandatory by court order or other legal process described herein does not require consent of the subject but will include counseling.
- (2) The court having jurisdiction of the criminal prosecution shall order that an HIV-related test be performed on any persons charged with any of the following crimes or offenses:
  - (i) Prostitution; or
  - (ii) Sexual abuse, sexual assault, incest or sexual molestation.
- (3) HIV-related tests performed on persons charged with prostitution, sexual abuse, sexual assault, incest or sexual molestation shall be confidentially administered by a designee of the bureau or the local or county health department having proper jurisdiction. The commissioner may designate health care providers in regional jail facilities to administer HIV-related tests on such persons if he or she determines it necessary and expedient.
- (4) When the Commissioner of the Bureau of Public Health knows or has reason to believe, because of medical or epidemiological information, that a person, including, but not limited to, a person such as an IV drug abuser, or a person who may have a sexually transmitted disease, or a person who has sexually molested, abused or assaulted another, has HIV infection and is or may be a danger to the public health, he or she may issue an order to:
  1. Require a person to be examined and tested to determine whether the person has HIV infection;
  2. Require a person with HIV infection to report to a qualified physician or health worker for counseling; and
  3. Direct a person with HIV infection to cease and desist from specified conduct which endangers the health of others.
- (5) If any person violates a cease and desist order issued pursuant to this section and, by virtue of that violation, the person presents a danger to the health of others, the commissioner shall apply to the circuit court of Kanawha County to enforce the cease and desist order by imposing any restrictions

upon the person that are necessary to prevent the specific conduct that endangers the health of others.

- (6) A person convicted of the offenses described in this section shall be required to undergo HIV-related testing and counseling immediately upon conviction and the court having jurisdiction of the criminal prosecution may not release the convicted person from custody and shall revoke any order admitting the defendant to bail until HIV-related testing and counseling have been performed and the result is known. The HIV-related test result obtained from the convicted person is to be transmitted to the court and, after the convicted person is sentenced, made part of the court record. If the convicted person is placed in the custody of the Division of Corrections, the court shall transmit a copy of the convicted person's HIV-related test results to the Division of Corrections. The HIV-related test results shall be closed and confidential and disclosed by the court and the bureau only in accordance with the provisions of section three of this article.
- (7) The prosecuting attorney shall inform the victim, or parent or guardian of the victim, at the earliest stage of the proceedings of the availability of voluntary HIV-related testing and counseling conducted by the bureau and that his or her best health interest would be served by submitting to HIV-related testing and counseling. HIV-related testing for the victim shall be administered at his or her request on a confidential basis and shall be administered in accordance with the Centers for Disease Control and Prevention guidelines of the United States Public Health Service in effect at the time of such request. The victim who obtains an HIV-related test shall be provided with pre and post-test counseling regarding the nature, reliability and significance of the HIV-related test and the confidential nature of the test. HIV-related testing and counseling conducted pursuant to this subsection shall be performed by the designee of the commissioner of the bureau or by any local or county health department having proper jurisdiction.
- (8) If a person receives counseling or is tested under this subsection and is found to be HIV infected and the person is not incarcerated, the person shall be referred by the health care provider performing the counseling or testing for appropriate medical care and support services. The local or county health departments or any other agency under this subsection may not be financially responsible for medical care and support services.
- (9) The commissioner of the bureau or his or her designees may require an HIV test for the protection of a person who was possibly exposed to HIV infected blood or other body fluids as a result of receiving or rendering emergency medical aid or who possibly received such exposure as a funeral director. Results of such a test of the person causing exposure may be used by the requesting physician for the purpose of determining appropriate therapy, counseling and psychological support for the person rendering emergency medical aid including good Samaritans, as well as for the patient, or individual receiving the emergency medical aid.
- (10) If an HIV-related test required on persons convicted of prostitution, sexual abuse, sexual assault, incest or sexual molestation results in a negative reaction, upon motion of the state, the court having jurisdiction over the criminal prosecution may require the subject of the test to submit to further HIV-related tests performed under the direction of the bureau in accordance with the Centers for Disease Control and Prevention guidelines of the United States Public Health Service in effect at the time of the motion of the state.
- (11) The costs of mandated testing and counseling provided under this subsection and pre and postconviction HIV-related testing and counseling provided the victim under the direction of the bureau pursuant to this subsection shall be paid by the bureau.
- (12) The court having jurisdiction of the criminal prosecution shall order a person convicted of prostitution, sexual abuse, sexual assault, incest or sexual molestation to pay restitution to the state for the costs of any HIV-related testing and counseling provided the convicted person and the victim, unless the court has determined the convicted person to be indigent.

- (13) Any funds recovered by the state as a result of an award of restitution under this subsection shall be paid into the State Treasury to the credit of a special revenue fund to be known as the "HIV-testing fund" which is hereby created. The moneys so credited to the fund may be used solely by the bureau for the purposes of facilitating the performance of HIV-related testing and counseling under the provisions of this article.
- vii. Nothing in this section is applicable to any insurer regulated under chapter thirty-three of this code: *Provided*, That the commissioner of insurance shall develop standards regarding consent for use by insurers which test for the presence of the HIV antibody.
- viii. Whenever consent of the subject to the performance of HIV-related testing is required under this article, any such consent obtained, whether orally or in writing, shall be considered to be a valid and informed consent if it is given after compliance with the provisions of subsection (b) of this section.

#### **WV ST § 16-4-14. Issuance of warrant or order as to custody**

Upon receipt of a written report or of any other reliable information by the local health officer that any person infected with a venereal disease in an infectious stage is conducting himself, or herself, or is about to conduct himself or herself, so as to infect others, or expose others to infection; or that a person infected with a venereal disease under treatment; or that any person is a prostitute, or person associating with prostitutes, and is reasonably suspected of being infected, or of conducting himself or herself so as to infect others; or that a person has been convicted in any court or municipality, or before a justice of the peace, of an offense growing out of sex immorality; or that a person is being held by any court, municipality, or justice of the peace, pending an examination for a venereal disease; or that a certain person has been reported in a venereal disease report as the source of a venereal disease; or when any other facts are brought to the attention of the local health officer having proper jurisdiction, showing that any person is reasonably suspected of being infected with a venereal disease, or is about to conduct himself or herself so as to infect others, said health officer shall at once issue his warrant or order, if the party be not already in custody, and shall proceed as hereinafter provided.

#### **WV ST § 16-4-19. Voluntary submission to examination and treatment;...**

Any resident of the State may at any time report to any municipal or county health officer having jurisdiction of the case, and voluntarily submit himself to all tests and examination as are necessary to ascertain whether in fact the person submitting himself for examination is infected with a venereal disease; and said health officer to whom any party has applied as above for tests and examination shall provide for making all such tests and examinations as are necessary to ascertain whether in fact said party so applying be so infected with a venereal disease. If such tests and examinations show said party so applying to be so infected, then said party shall elect whether he will take treatment of a private physician, or whether he will take treatment to be provided by the health officer through a clinic or otherwise, and if he elects to take treatment through the local health officer's arrangement, he may be required to pay for such treatment at a charge which shall in no case exceed the sum of five dollars for each dose of "neo" or arsphenamine administered for syphilis, and at a nominal cost for other medicines used; but if the patient is unable to pay anything, he shall be treated free of charge under the direction of the local health officer, at a clinic or otherwise. All proper charges for such examination and treatment as may be necessary hereunder shall be a proper charge against the municipality or county, as the case may be, whether said party so taking treatment lived in or out of a municipal corporation. And whether said person proposing to take treatment as provided hereunder elect to take from a

private physician or elect to take treatment under the direction of the local health officer, he shall first sign the agreement required to be signed by persons about to be released from detention or quarantine, and shall observe all its provisions, and so long as such person so signing shall so observe these provisions he need not be detained or quarantined pending treatment, except that no person who is known as a prostitute, or as a person associating with such, or as a person who resides in any house having the reputation of being a house of prostitution, or who frequents the same, shall be allowed at liberty if infected with a venereal disease in an infectious stage, even though he does voluntarily submit for examination and treatment and does take treatment under the provisions of this section.

All money collected under this section shall be paid into a clinic fund, if one is provided, and if not then into the county or city treasury, as the case may be; and the local health officer having jurisdiction shall collect and account for such funds collected hereunder.

### **WV ST § 16-4-25. Advertisements concerning venereal disease, etc...**

Whosoever publishes, delivers or distributes or causes to be published, delivered or distributed in any manner whatsoever, in this State, any advertisement concerning a venereal disease, lost manhood, lost vitality, impotency, sexual weakness, seminal emissions, varicocele, self-abuse or excessive sexual indulgence, and calling attention to a medicine, article or preparation that may be used therefor, or to a person or persons from whom, or an office or place at which, information, treatment or advice relating to such disease, infirmity, habit or condition may be obtained, is guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than one hundred nor more than three hundred dollars, or imprisonment in the county jail not to exceed six months, or both, in the discretion of the court.

Nothing in this section shall be construed as to prevent legitimate and legal public notices, placards, etc., issued under the direction of the state department of health or as to prevent sending out literature by either the state department of health or the United States public health service.

### **WV ST § 33-15-4c. Third party reimbursement for mammography, pap...**

- (a) Notwithstanding any provision of any policy, provision, contract, plan or agreement to which this article applies, whenever reimbursement or indemnity for laboratory or X-ray services are covered, reimbursement or indemnification shall not be denied for any of the following when performed for cancer screening or diagnostic purposes, at the direction of a person licensed to practice medicine and surgery by the board of medicine:
- (1) Mammograms when medically appropriate and consistent with the current guidelines from the United States Preventive Services Task Force.
  - (2) A pap smear, either conventional or liquid-based cytology, whichever is medically appropriate and consistent with the current guidelines from either the United States Preventive Services Task Force or The American College of Obstetricians and Gynecologists for women age eighteen or over; or
  - (3) A test for the human papilloma virus (HPV), for women age eighteen or over when medically appropriate and consistent with the current guidelines from either the United States Preventive Services Task Force or The American College of Obstetricians and Gynecologists for women age eighteen and over.

(b) A policy, provision, contract, plan or agreement may apply to mammograms, pap smears or human papilloma virus (HPV) test the same deductibles, coinsurance and other limitations as apply to other covered services.

### **WV ST § 33-16-3g. Third party reimbursement for mammography, pap...**

Notwithstanding any provision of any policy, provision, contract, plan or agreement to which this article applies, whenever reimbursement or indemnity for laboratory or X-ray services are covered, reimbursement or indemnification shall not be denied for any of the following when performed for cancer screening or diagnostic purposes, at the direction of a person licensed to practice medicine and surgery by the board of medicine:

- (1) Mammograms when medically appropriate and consistent with the current guidelines from the United States Preventive Services Task Force.
- (2) A pap smear, either conventional or liquid-based cytology, whichever is medically appropriate and consistent with the current guidelines from the United States Preventive Services Task Force or The American College of Obstetricians and Gynecologists, for women age eighteen or over; and
- (3) A test for the human papilloma virus (HPV) for women age eighteen or over, when medically appropriate and consistent with the current guidelines from either the United States Preventive Services Task Force or The American College of Obstetricians and Gynecologists for women age eighteen and over.

A policy, provision, contract, plan or agreement may apply to mammograms, pap smears or human papilloma virus (HPV) test the same deductibles, coinsurance and other limitations as apply to other covered services.

### **WV ST § 33-24-7b. Third party reimbursement for mammography, pap...**

(a) Notwithstanding any provision of any policy, provision, contract, plan or agreement to which this article applies, whenever reimbursement or indemnity for laboratory or X-ray services are covered, reimbursement or indemnification shall not be denied for any of the following when performed for cancer screening or diagnostic purposes, at the direction of a person licensed to practice medicine and surgery by the board of medicine:

- (1) Mammograms when medically appropriate and consistent with the current guidelines from the United States Preventive Services Task Force;
- (2) A pap smear, either conventional or liquid-based cytology, whichever is medically appropriate and consistent with the current guidelines from either the United States Preventive Services Task Force or The American College of Obstetricians and Gynecologists, for women age eighteen or over; or
- (3) A test for the human papilloma virus (HPV), when medically appropriate and consistent with the current guidelines from either the United States Preventive Services Task Force or The American College of Obstetricians and Gynecologists, for women age eighteen or over.

(b) A policy, provision, contract, plan or agreement may apply to mammograms, pap smears or human papilloma virus (HPV) test the same deductibles, coinsurance and other limitations as apply to other covered services.

### **WV ST § 33-25A-8a. Third party reimbursement for mammography, pap...**

- a. Notwithstanding any provision of any policy, provision, contract, plan or agreement to which this article applies, whenever reimbursement or indemnity for laboratory or X-ray services are covered, reimbursement or indemnification shall not be denied for any of the following when performed for cancer screening or diagnostic purposes, at the direction of a person licensed to practice medicine and surgery by the board of medicine:
  1. Mammograms when medically appropriate and consistent with the current guidelines from the United States Preventive Services Task Force or The American College of Obstetricians and Gynecologists.
  2. A pap smear, either conventional or liquid-based cytology, whichever is medically appropriate and consistent with the current guidelines from the United States Preventive Services Task Force or The American College of Obstetricians and Gynecologists, for women age eighteen or over; or
  3. A test for the human papilloma virus (HPV) for women age eighteen or over, when medically appropriate and consistent with the current guidelines from either the United States Preventive Services Task Force or The American College of Obstetricians and Gynecologists for women age eighteen and over.
- b. A policy, provision, contract, plan or agreement may apply to mammograms, pap smears or human papilloma virus (HPV) test the same deductibles, coinsurance and other limitations as apply to other covered services.

### **WV ST § 5-16-7. Authorization to establish group hospital and surgical...**

- (a) The agency shall establish a group hospital and surgical insurance plan or plans, a group prescription drug insurance plan or plans, a group major medical insurance plan or plans and a group life and accidental death insurance plan or plans for those employees herein made eligible and establish and promulgate rules for the administration of these plans subject to the limitations contained in this article. These plans shall include:
  - (1) Coverages and benefits for x-ray and laboratory services in connection with mammograms when medically appropriate and consistent with current guidelines from the United States Preventive Services Task Force; pap smears, either conventional or liquid-based cytology, whichever is medically appropriate, and consistent with the current guidelines from either the United States Preventive Services Task Force or The American College of Obstetricians and Gynecologists; and a test for the human papilloma virus (HPV) when medically appropriate and consistent with current guidelines from either the United States Preventive Services Task Force or The American College of Obstetricians and Gynecologists, when performed for cancer screening or diagnostic services on a woman age eighteen or over;
  - (2) Annual checkups for prostate cancer in men age fifty and over;
  - (3) Annual screening for kidney disease as determined to be medically necessary by a physician using any combination of blood pressure testing, urine albumin or urine protein testing and serum creatinine testing as recommended by the National Kidney Foundation;
  - (4) For plans that include maternity benefits, coverage for inpatient care in a duly licensed health care facility for a mother and her newly born infant for the length of time which the attending physician considers medically necessary for the mother or her newly born child. No plan may deny payment for a mother or her newborn child prior to forty-eight hours following a vaginal delivery or prior to ninety-six

hours following a caesarean section delivery if the attending physician considers discharge medically inappropriate;

- (5) For plans which provide coverages for post-delivery care to a mother and her newly born child in the home, coverage for inpatient care following childbirth as provided in subdivision (4) of this subsection if inpatient care is determined to be medically necessary by the attending physician. These plans may include, among other things, medicines, medical equipment, prosthetic appliances and any other inpatient and outpatient services and expenses considered appropriate and desirable by the agency; and
- (6) Coverage for treatment of serious mental illness:
  - (A) The coverage does not include custodial care, residential care or schooling. For purposes of this section, "serious mental illness" means an illness included in the American Psychiatric Association's diagnostic and statistical manual of mental disorders, as periodically revised, under the diagnostic categories or subclassifications of: (i) Schizophrenia and other psychotic disorders; (ii) bipolar disorders; (iii) depressive disorders; (iv) substance-related disorders with the exception of caffeine-related disorders and nicotine-related disorders; anxiety disorders; and anorexia and bulimia. With regard to a covered individual who has not yet attained the age of nineteen years, "serious mental illness" also includes attention deficit hyperactivity disorder, separation anxiety disorder and conduct disorder.
  - (B) Notwithstanding any other provision in this section to the contrary, if the agency demonstrates that its total costs for the treatment of mental illness for any plan exceeds two percent of the total costs for such plan in any experience period, then the agency may apply whatever additional cost-containment measures may be necessary in order to maintain costs below two percent of the total costs for the plan for the next experience period. These measures may include, but are not limited to, limitations on inpatient and outpatient benefits.
  - (C) The agency shall not discriminate between medical-surgical benefits and mental health benefits in the administration of its plan. With regard to both medical-surgical and mental health benefits, it may make determinations of medical necessity and appropriateness and it may use recognized health care quality and cost management tools including, but not limited to, limitations on inpatient and outpatient benefits, utilization review, implementation of cost-containment measures, preauthorization for certain treatments, setting coverage levels, setting maximum number of visits within certain time periods, using capitated benefit arrangements, using fee-for-service arrangements, using third-party administrators, using provider networks and using patient cost sharing in the form of copayments, deductibles and coinsurance.
- (7) Coverage for general anesthesia for dental procedures and associated outpatient hospital or ambulatory facility charges provided by appropriately licensed health care individuals in conjunction with dental care if the covered person is:
  - (A) Seven years of age or younger or is developmentally disabled and is an individual for whom a successful result cannot be expected from dental care provided under local anesthesia because of a physical, intellectual or other medically compromising condition of the individual and for whom a superior result can be expected from dental care provided under general anesthesia;
  - (B) A child who is twelve years of age or younger with documented phobias or with documented mental illness and with dental needs of such magnitude that treatment should not be delayed or deferred and for whom lack of treatment can be expected to result in infection, loss of teeth or other increased oral or dental morbidity and for whom a successful result cannot be expected from

dental care provided under local anesthesia because of such condition and for whom a superior result can be expected from dental care provided under general anesthesia.

- (8) (A) Any plan issued or renewed on or after January 1, 2012, shall include coverage for diagnosis, evaluation and treatment of autism spectrum disorder in individuals ages eighteen months to eighteen years. To be eligible for coverage and benefits under this subdivision, the individual must be diagnosed with autism spectrum disorder at age eight or younger. Such plan shall provide coverage for treatments that are medically necessary and ordered or prescribed by a licensed physician or licensed psychologist and in accordance with a treatment plan developed from a comprehensive evaluation by a certified behavior analyst for an individual diagnosed with autism spectrum disorder.
- (B) The coverage shall include, but not be limited to, applied behavior analysis which shall be provided or supervised by a certified behavior analyst. The annual maximum benefit for applied behavior analysis required by this subdivision shall be in an amount not to exceed \$30,000 per individual for three consecutive years from the date treatment commences. At the conclusion of the third year, coverage for applied behavior analysis required by this subdivision shall be in an amount not to exceed \$2,000 per month, until the individual reaches eighteen years of age, as long as the treatment is medically necessary and in accordance with a treatment plan developed by a certified behavior analyst pursuant to a comprehensive evaluation or reevaluation of the individual. This subdivision does not limit, replace or affect any obligation to provide services to an individual under the Individuals with Disabilities Education Act, 20 U. S. C. 1400 et seq., as amended from time to time or other publicly funded programs. Nothing in this subdivision requires reimbursement for services provided by public school personnel.
- (C) The certified behavior analyst shall file progress reports with the agency semiannually. In order for treatment to continue, the agency must receive objective evidence or a clinically supportable statement of expectation that:
- i. The individual's condition is improving in response to treatment;
  - ii. A maximum improvement is yet to be attained; and
  - iii. There is an expectation that the anticipated improvement is attainable in a reasonable and generally predictable period of time.
- (D) On or before January 1 each year, the agency shall file an annual report with the Joint Committee on Government and Finance describing its implementation of the coverage provided pursuant to this subdivision. The report shall include, but not be limited to, the number of individuals in the plan utilizing the coverage required by this subdivision, the fiscal and administrative impact of the implementation and any recommendations the agency may have as to changes in law or policy related to the coverage provided under this subdivision. In addition, the agency shall provide such other information as required by the Joint Committee on Government and Finance as it may request.
- (E) For purposes of this subdivision, the term:
- i. "Applied behavior analysis" means the design, implementation and evaluation of environmental modifications using behavioral stimuli and consequences in order to produce socially significant improvement in human behavior and includes the use of direct observation, measurement and functional analysis of the relationship between environment and behavior.
  - ii. "Autism spectrum disorder" means any pervasive developmental disorder including autistic disorder, Asperger's Syndrome, Rett Syndrome, childhood disintegrative disorder or Pervasive

Development Disorder as defined in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders of the American Psychiatric Association.

- iii. "Certified behavior analyst" means an individual who is certified by the Behavior Analyst Certification Board or certified by a similar nationally recognized organization.
- iv. "Objective evidence" means standardized patient assessment instruments, outcome measurements tools or measurable assessments of functional outcome. Use of objective measures at the beginning of treatment, during and after treatment is recommended to quantify progress and support justifications for continued treatment. The tools are not required but their use will enhance the justification for continued treatment.

(F) To the extent that the application of this subdivision for autism spectrum disorder causes an increase of at least one percent of actual total costs of coverage for the plan year, the agency may apply additional cost containment measures.

(G) To the extent that the provisions of this subdivision require benefits that exceed the essential health benefits specified under section 1302(b) of the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended, the specific benefits that exceed the specified essential health benefits shall not be required of insurance plans offered by the Public Employees Insurance Agency.

(9) For plans that include maternity benefits, coverage for the same maternity benefits for all individuals participating in or receiving coverage under plans that are issued or renewed on or after January 1, 2014: Provided, That to the extent that the provisions of this subdivision require benefits that exceed the essential health benefits specified under section 1302(b) of the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended, the specific benefits that exceed the specified essential health benefits shall not be required of a health benefit plan when the plan is offered in this state.

(b) The agency shall, with full authorization, make available to each eligible employee, at full cost to the employee, the opportunity to purchase optional group life and accidental death insurance as established under the rules of the agency. In addition, each employee is entitled to have his or her spouse and dependents, as defined by the rules of the agency, included in the optional coverage, at full cost to the employee, for each eligible dependent.

(c) The finance board may cause to be separately rated for claims experience purposes:

- (1) All employees of the State of West Virginia;
- (2) All teaching and professional employees of state public institutions of higher education and county boards of education;
- (3) All nonteaching employees of the Higher Education Policy Commission, West Virginia Council for Community and Technical College Education and county boards of education; or
- (4) Any other categorization which would ensure the stability of the overall program.

(d) The agency shall maintain the medical and prescription drug coverage for Medicare eligible retirees by providing coverage through one of the existing plans or by enrolling the Medicare eligible retired employees into a Medicare specific plan, including, but not limited to, the Medicare/Advantage Prescription Drug Plan. If a Medicare specific plan is no longer available or advantageous for the agency and the retirees, the retirees remain eligible for coverage through the agency.

## WISCONSIN

### WI ST 252.11. Sexually transmitted disease

(1) In this section, "sexually transmitted disease" means syphilis, gonorrhea, chlamydia and other diseases the department includes by rule.

(1m) A physician or other health care professional called to attend a person infected with any form of sexually transmitted disease, as specified in rules promulgated by the department, shall report the disease to the local health officer and to the department in the manner directed by the department in writing on forms furnished by the department. A physician may treat a minor infected with a sexually transmitted disease or examine and diagnose a minor for the presence of such a disease without obtaining the consent of the minor's parents or guardian. The physician shall incur no civil liability solely by reason of the lack of consent of the minor's parents or guardian.

(2) An officer of the department or a local health officer having knowledge of any reported or reasonably suspected case or contact of a sexually transmitted disease for which no appropriate treatment is being administered, or of an actual contact of a reported case or potential contact of a reasonably suspected case, shall investigate or cause the case or contact to be investigated as necessary. If, following a request of an officer of the department or a local health officer, a person reasonably suspected of being infected with a sexually transmitted disease refuses or neglects examination by a physician, physician assistant, or advanced practice nurse prescriber or treatment, an officer of the department or a local health officer may proceed to have the person committed under sub. (5) to an institution or system of care for examination, treatment, or observation.

(4) If a person infected with a sexually transmitted disease ceases or refuses treatment before reaching what in a physician's, physician assistant's, or advanced practice nurse prescriber's opinion is the non-communicable stage, the physician, physician assistant, or advanced practice nurse prescriber shall notify the department. The department shall without delay take the necessary steps to have the person committed for treatment or observation under sub. (5), or shall notify the local health officer to take these steps.

(5) Any court of record may commit a person infected with a sexually transmitted disease to any institution or may require the person to undergo a system of care for examination, treatment, or observation if the person ceases or refuses examination, treatment, or observation under the supervision of a physician, physician assistant, or advanced practice nurse prescriber. The court shall summon the person to appear on a date at least 48 hours, but not more than 96 hours, after service if an officer of the department or a local health officer petitions the court and states the facts authorizing commitment. If the person fails to appear or fails to accept commitment without reasonable cause, the court may cite the person for contempt. The court may issue a warrant and may direct the sheriff, any constable, or any police officer of the county immediately to arrest the person and bring the person to court if the court finds that a summons will be ineffectual. The court shall hear the matter of commitment summarily. Commitment under this subsection continues until the disease is no longer communicable or until other provisions are made for treatment that satisfy the department. The certificate of the petitioning officer is prima facie evidence that the disease is no longer communicable or that satisfactory provisions for treatment have been made.

(5m) A health care professional, as defined in s. 968.38(1)(a), acting under an order of a court under s. 938.296(4) or 968.38(4) may, without first obtaining informed consent to the testing, subject an individual

to a test or a series of tests to ascertain whether that individual is infected with a sexually transmitted disease. No sample used for performance of a test under this subsection may disclose the name of the test subject.

- (7) Reports, examinations and inspections and all records concerning sexually transmitted diseases are confidential and not open to public inspection, and may not be divulged except as may be necessary for the preservation of the public health, in the course of commitment proceedings under sub. (5), or as provided under s. 938.296(4) or 968.38(4). If a physician, physician assistant, or advanced practice nurse prescriber has reported a case of sexually transmitted disease to the department under sub. (4), information regarding the presence of the disease and treatment is not privileged when the patient, physician, physician assistant, or advanced practice nurse prescriber is called upon to testify to the facts before any court of record.
- (9) The department shall prepare for free distribution upon request to state residents, information and instructions concerning sexually transmitted diseases.
- (10) The state laboratory of hygiene shall examine specimens for the diagnosis of sexually transmitted diseases for any physician, physician assistant, advanced practice nurse prescriber, or local health officer in the state, and shall report the positive results of the examinations to the local health officer and to the department. All laboratories performing tests for sexually transmitted diseases shall report all positive results to the local health officer and to the department, with the name of the physician, physician assistant, or advanced practice nurse prescriber to whom reported.
- (11) In each county with an incidence of gonorrhea, antibiotic resistant gonorrhea, chlamydia or syphilis that exceeds the statewide average, a program to diagnose and treat sexually transmitted diseases at no cost to the patient is required. The county board of supervisors is responsible for ensuring that the program exists, but is required to establish its own program only if no other public or private program is operating. The department shall compile statistics indicating the incidence of gonorrhea, antibiotic resistant gonorrhea, chlamydia and syphilis for each county in the state.

## **WI ST 252.12. HIV and related infections, including hepatitis C virus...**

(1) Definitions. In this section:

- (b) "AIDS service organizations" means nonprofit corporations or public agencies that provide, or arrange for the provision of, comprehensive services to prevent HIV infection and comprehensive health and social services for persons who have HIV infection, and that are designated as such by the department under sub. (4).
- (c) "Nonprofit corporation" means a nonstock corporation organized under ch. 181 that is a nonprofit corporation, as defined in s. 181.0103 (17).
- (d) "Organization" means a nonprofit corporation or a public agency which proposes to provide services to individuals with acquired immunodeficiency syndrome.
- (e) "Public agency" means a county, city, village, town or school district or an agency of this state or of a county, city, village, town or school district.

(2) Distribution of funds. (a) HIV and related infections, including hepatitis C virus infections; services. From the appropriation accounts under s. 20.435(1)(a) and (am), the department shall distribute funds for the provision of services to individuals with or at risk of contracting HIV infection, as follows:

1. 'Partner referral and notification.' The department shall contact an individual known to have received an HIV infection and encourage him or her to refer for counseling, HIV testing, and, if appropriate, testing for hepatitis C virus infection any person with whom the individual has had sexual relations or has shared intravenous equipment.
2. 'Grants to local projects.' The department shall make grants to applying organizations for the provision of HIV and related infection prevention information, the establishment of counseling support groups and the provision of direct care to persons with HIV infection, including those persons with hepatitis C virus infection.
3. 'Statewide public education campaign.' The department shall promote public awareness of the risk of contracting HIV and related infections and measures for HIV and related infections protection by development and distribution of information through clinics providing family planning services, as defined in s. 253.07(1)(b), offices of physicians and clinics for sexually transmitted diseases and by newsletters, public presentations or other releases of information to newspapers, periodicals, radio and television stations and other public information resources. The information shall be targeted at individuals whose behavior puts them at risk of contracting HIV and related infections and shall encompass the following topics:
  - a. HIV infection and related infections.
  - b. Means of identifying whether or not individuals may be at risk of contracting HIV and related infections.
  - c. Measures individuals may take to protect themselves from contracting HIV and related infections.
  - d. Locations for procuring additional information or obtaining HIV testing services.
4. 'Information network.' The department shall establish a network to provide information to local health officers and other public officials who are responsible for HIV infection and related infection prevention and training.
5. The department shall perform HIV tests and, if appropriate, tests for the presence of related infections and shall conduct behavioral surveys among population groups determined by the department to be highly at risk of becoming infected with or transmitting HIV and related infections. Information obtained shall be used to develop targeted HIV infection and related infection prevention efforts for these groups and to evaluate the state's prevention strategies.
6. 'Grants for targeted populations and intervention services.' The department shall make grants to those applying organizations that the department determines are best able to contact individuals who are determined to be highly at risk of contracting HIV for the provision of HIV and related infection information and intervention services.
7. The department shall distribute funding in each fiscal year to contract with organizations to provide, at alternate testing sites, anonymous or confidential counseling services for HIV , laboratory HIV testing services , and, if appropriate, laboratory testing services for the presence of related viruses.
8. 'Mike Johnson life care and early intervention services grants.' (intro.)The department shall award not more than \$3,569,900 in each fiscal year in grants to applying organizations for the provision of needs assessments; assistance in procuring financial, medical, legal, social and pastoral services; counseling and therapy; homecare services and supplies; advocacy; and case management services. These services shall include early intervention services. The department shall also award not more than \$74,000 in each year from the appropriation account under s. 20.435(5)(md) for the services under this subdivision. The state share of payment for case management services that are provided under s. 49.45(25)(be) to recipients of medical assistance shall be paid from the appropriation account under s. 20.435(1)(am). All of the following apply to grants awarded under this subdivision:

- a. None of the funds awarded may be used to fund AIDS programs, or to develop materials, designed to promote or encourage, directly, intravenous drug use or sexual activity, whether homosexual or heterosexual.
  - b. None of the funds awarded may be used for political purposes.
  - c. Funds awarded shall be used to provide medical care and support services for individuals with HIV.
9. 'Grant for family resource center.' The department shall award a grant to develop and implement an African-American family resource center in the city of Milwaukee that targets activities toward the prevention and treatment of HIV infection and related infections, including hepatitis C virus infection, of minority group members, as defined in s. 16.287(1)(f).
- (d) HIV prevention grants. 1. From the appropriation account under s. 20.435(1)(md), the department shall award to applying nonprofit corporations or public agencies up to \$75,000 in each fiscal year, on a competitive basis, as grants for services to prevent HIV. Criteria for award of the grants shall include all of the following:
- a. The scope of proposed services, including the proposed targeted population and numbers of persons proposed to be served.
  - b. The proposed methodology for the prevention services, including distribution and delivery of information and appropriateness of the message provided.
  - c. The qualifications of the applicant nonprofit corporation or public agency and its staff.
  - d. The proposed allocation of grant funds to the nonprofit corporation or public agency staff and services.
  - e. The proposed method by which the applicant would evaluate the impact of the grant funds awarded.
2. From the appropriation account under s. 20.435(1)(am), the department shall award \$75,000 in each fiscal year as grants for services to prevent HIV infection and related infections, including hepatitis C virus infection. Criteria for award of the grants shall include the criteria specified under subd. 1. The department shall award 60% of the funding to applying organizations that receive funding under par. (a)8. and 40% of the funding to applying community-based organizations that are operated by minority group members, as defined in s. 16.287(1)(f).
3. From the appropriation account under s. 20.435(1)(am), the department shall award to the African American AIDS task force of the Black Health Coalition of Wisconsin, Inc., \$25,000 in each fiscal year as grants for services to prevent HIV infection and related infections, including hepatitis C infection.
- (3) Confidentiality of information. The results of any test performed under sub. (2) (a)5 are confidential and may be disclosed only to the individual who receives a test or to other persons with the informed consent of the test subject. Information other than that released to the test subject, if released under sub. (2)(a)5, may not identify the test subject.
- (4) Designation of AIDS service organizations. The department shall designate AIDS service organizations and specify the geographical area of the state in which they are designated to provide services.

## **WI ST 253.07. Women's health block grant**

- (1) Definitions. In this section:

(a) "Family planning" means voluntary action by individuals to prevent or aid conception. "Family planning" does not include the performance, promotion, encouragement or counseling in favor of, or referral either directly or through an intermediary for, voluntary termination of pregnancy, but may include the providing of nondirective information explaining any of the following:

1. Prenatal care and delivery.
2. Infant care, foster care or adoption.

(b) "Family planning services" mean counseling by trained personnel regarding family planning; distribution of information relating to family planning; and referral to licensed nurse practitioners within the scope of their practice, licensed physicians or local health departments for consultation, examination, medical treatment and prescriptions for the purpose of family planning. "Family planning" does not include the performance, promotion, encouragement or counseling in favor of, or referral either directly or through an intermediary for, voluntary termination of pregnancy, but may include the providing of nondirective information explaining any of the following:

1. Prenatal care and delivery.
2. Infant care, foster care or adoption.

(c) "Women's health funds" means state funds appropriated under s. 20.435(1)(f) or federal funds received by the state under Title V of the federal Social Security Act, 42 USC 701 to 713, that are allocated for the purposes described in this section.

(2) Department's duties. (a) The department shall provide for delivery of family planning services throughout the state by developing and by annually reviewing and updating a state plan for community-based family planning programs.

(b) The department shall allocate women's health funds under its control in a manner which will promote the development and maintenance of an integrated system of community health services. It shall maximize the use of existing community family planning services by encouraging local contractual arrangements.

(c) The department shall coordinate the delivery of family planning services by allocating women's health funds in a manner which maximizes coordination between the agencies.

(d) The department shall encourage maximum coordination of family planning services between county social services departments, family planning agencies and local health departments to maximize the use of health, social service and welfare resources.

(e) The department shall promulgate all rules necessary to implement and administer this section.

(3) Individual rights, medical privilege. (a) The request of any person for family planning services or his or her refusal to accept any service shall in no way affect the right of the person to receive public assistance, public health services or any other public service. Nothing in this section may abridge the right of the individual to make decisions concerning family planning, nor may any individual be required to state his or her reason for refusing any offer of family planning services.

(b) Any employee of the agencies engaged in the administration of the provisions of this section may refuse to accept the duty of offering family planning services to the extent that the duty is contrary to his or her personal beliefs. A refusal may not be grounds for dismissal, suspension, demotion, or any

other discrimination in employment. The directors or supervisors of the agencies shall reassign the duties of employees in order to carry out the provisions of this section.

(c) All information gathered by any agency, entity or person conducting programs in family planning, other than statistical information compiled without reference to the identity of any individual or other information which the individual allows to be released through his or her informed consent, shall be considered a confidential medical record.

(4) Women's health block grant services. From the appropriation under s. 20.435(1)(f) and subject to sub. (5), the department shall distribute the following amounts for all of the following :

(a) In each fiscal year, \$225,000 to establish and maintain 2 city-based clinics for delivery of family planning services under this section, in the cities of Milwaukee, Racine, or Kenosha.

(b) In each fiscal year, \$67,500 to subsidize the provision of papanicolaou tests to individuals with low income by entities that receive women's health funds. In this paragraph, "low income" means adjusted gross income that is less than 200% of the poverty line established under 42 USC 9902(2).

(d) In each fiscal year, \$54,000 to subsidize the provision of follow-up cancer screening by entities that receive women's health funds.

(e) In each fiscal year, \$31,500 as grants for employment in communities of licensed registered nurses, licensed practical nurses, certified nurse-midwives, or licensed physician assistants who are members of a racial minority.

(f) In each fiscal year, \$36,000 to initiate, in areas of high incidence of the disease chlamydia, education, and outreach programs to locate, educate, and treat individuals at high risk of contracting the disease chlamydia and their partners.

(5) Women's health funds.

(a) The department shall distribute women's health funds only to public entities. These funds may be allocated for any activities for which funds were provided under this section before July 1, 2011, including pregnancy testing; perinatal care coordination and follow-up; cervical cancer screening; sexually transmitted infection prevention, testing, treatment, and follow-up; and general health screening.

(b) Subject to par. (c), a public entity that receives women's health funds under this section may provide some or all of the funds to other public or private entities provided that the recipient of the funds does not do any of the following:

1. Provide abortion services.
2. Make referrals for abortion services.
3. Have an affiliate that provides abortion services or makes referrals for abortion services.

(c) Providing abortion services, making referrals for abortion services, or having an affiliate that provides abortion services or makes referrals for abortion services solely under the circumstances described in s. 20.927(2) does not disqualify an entity from receiving women's health funds from a public entity under par. (b).

### **WI ST 46.03. Department, powers and duties**

The department shall:

- (1) Institutions governed. Maintain and govern the Mendota and the Winnebago mental health institutes; the secure mental health facility established under s. 46.055; and the centers for the developmentally disabled.
- (2) Supervision over property. Supervise, manage, preserve and care for the buildings, grounds and other property pertaining to said institutions, and promote the objects for which they are established.
  - (2a) Gifts. Be authorized to accept gifts, grants or donations of money or of property from private sources to be administered by the department for the execution of its functions.
- (3) Trustee duty. Take and hold in trust, whenever it considers acceptance advantageous, all property transferred to the state to be applied to any specified purpose, use or benefit pertaining to any of the institutions under its control or the inmates thereof, and apply the same in accordance with the trust; and when ordered by the court, act as trustee of funds paid for the support of any child if appointed by the court or a circuit court commissioner under s. 767.82(7).
- (4) Education and prevention.
  - (a) Develop and maintain education and prevention programs that it considers to be proper.
  - (b) In order to discharge more effectively its responsibilities under this chapter and other relevant provisions of the statutes, be authorized to study causes and methods of prevention and treatment of mental illness, mental deficiency, mental infirmity, and related social problems, including establishment of demonstration projects to apply and evaluate such methods in actual cases. The department is directed and authorized to utilize all powers provided by the statutes, including the authority under sub. (2a), to accept grants of money or property from federal, state, or private sources, and to enlist the cooperation of other appropriate agencies and state departments. The department may enter into agreements with local government subdivisions, departments, and agencies for the joint conduct of these projects, and it may purchase services when considered appropriate.
- (5) Mental hygiene.
  - (a) Execute the laws relating to the custody, care and treatment of mentally ill, mentally infirm and mentally deficient persons, inebriates and drug addicts. It shall examine all institutions, public and private, authorized to receive and care for such persons, and inquire into the method of government and the management of persons therein, and examine into the condition of buildings, grounds and other property connected with any such institution and into matters relating to its management.
  - (b) Direct the psychiatric field work, aftercare and community supervision and exercise such powers in relation to prevention as the department deems appropriate.
- (7) Children and youth.
  - (a) Promote the enforcement of laws for the protection of developmentally disabled children; and to this end cooperate with courts assigned to exercise jurisdiction under chs. 48 and 938, licensed child welfare agencies, and public and private institutions and take the initiative in all matters involving the interests of those children when adequate provision for those interests has not already been made, including the establishment and enforcement of standards for services provided under ss. 48.345 and 48.347.
    - (bm) Maintain a file containing records of artificial inseminations under s. 891.40 and statements acknowledging paternity under s. 69.15(3)(b). The department may release those records and

statements only upon an order of the court except that the department may use nonidentifying information concerning artificial inseminations for the purpose of compiling statistics, and statements acknowledging paternity shall be released without a court order to the department of children and families or a county child support agency under s. 59.53(5) upon the request of that department or county child support agency pursuant to the program responsibilities under s. 49.22 or to any other person with a direct and tangible interest in the statement.

- (10) Training staff. In its discretion, conduct a training program of in-service training and staff development; and, in cooperation with educational institutions, provide facilities for work experience for students, including subsistence.
- (13) Charges. In compliance with the compensation plan established under s. 230.12(3), have authority to make and determine charges for meals, living quarters, laundry and other services furnished to employees of the several institutions and members of the employee's family maintained as such. All moneys received from each person on account of these services shall be used for operation of the institutions under s. 20.435(2)(a) and (gk). If a chaplain employed in any state institution administered by the department is not furnished a residence by the state, \$1,800 or 20% of the chaplain's salary, whichever is greater, is designated as his or her housing allowance.
- (14) Vending stands. Establish and maintain a revolving fund not exceeding \$60,000 in any of the state institutions administered by the department, for the education, recreation and convenience of the patients, inmates and employees, to be used for the operation of vending stands, canteen operations, reading clubs, musical organizations, religious programs, athletics and similar projects. The funds are exempt from s. 20.906, but are subject to audit by the department and the legislative audit bureau in its discretion.
- (15) Commissary. Pursuant to its rules the department may, with the approval of the governor and the director of personnel, provide employees in its institutions with laundry, food, housing and necessary furnishings.
- (17) Purchase of care and services. Be empowered to contract with public or voluntary agencies or others:
  - (a) To purchase in full or in part care and services which it is authorized by any statute to provide as an alternative to providing such care and services itself.
  - (b) To purchase or provide in full or in part the care and services which county agencies may provide or purchase under any statute and to sell to county agencies such portions thereof as the county agency may desire to purchase.
  - (d) To sell services, under contract, which the department is authorized to provide by statute, to any federally recognized tribal governing body.
- (18) Uniform fee schedule, liability and collections. (a) Except as provided in s. 46.10(14)(b) and (c), the department shall establish a uniform system of fees for services provided or purchased by the department, or a county department under s. 46.215, 46.22, 51.42, or 51.437, except for services provided under ch. 48 and subch. III of ch. 49; services provided to courts; outreach, information and referral services; or when, as determined by the department, a fee is administratively unfeasible or would significantly prevent accomplishing the purpose of the service. A county department under s. 46.215, 46.22, 51.42, or 51.437 shall apply the fees that it collects under this program to cover the cost of those services.

(am) Paragraph (a) also does not prevent a county department under s. 51.42 or 51.437 from charging and collecting the cost of an examination ordered under s. 938.295(2)(a) as authorized under s. 938.295(2)(c).

(ar) Subject to s. 46.995, a county may retain fees that it collects under this subsection for services the county provides without state funding under the disabled children's long-term support program.

- (b) Except as provided in s. 46.10(14)(b) and (c), any person receiving services provided or purchased under par. (a) or the spouse of the person and, in the case of a minor, the parents of the person, and, in the case of a foreign child described in s. 48.839(1) who became dependent on public funds for his or her primary support before an order granting his or her adoption, the resident of this state appointed guardian of the child by a foreign court who brought the child into this state for the purpose of adoption, shall be liable for the services in the amount of the fee established under par. (a). If a minor receives services without consent of a parent or guardian under s. 51.47, the department shall base the fee solely on the minor's ability to pay.
- (c) The department shall make collections from the person who in the opinion of the department is best able to pay, giving due regard to the present needs of the person or of his or her lawful dependents. The department may bring action in the name of the department to enforce the liability established under par. (b). The department may not collect from the parent of a minor receiving treatment for alcohol or drug abuse, except as provided in s. 51.47. This paragraph does not apply to the recovery of fees for the care and services specified under s. 46.10.
- (d) The department may compromise or waive all or part of the liability for services received. The sworn statement of the collection and deportation counsel appointed under s. 46.10(7) or the department secretary, shall be evidence of the services provided and the fees charged for such services.
- (e) The department may delegate to county departments under s. 46.215, 46.22, 51.42 or 51.437 and other providers of care and services the powers and duties vested in the department by pars. (c) and (d) as it deems necessary to efficiently administer this subsection, subject to such conditions as the department deems appropriate.
- (f) Notwithstanding par. (a), any person who submits to an assessment or airman or driver safety plan under s. 23.33(13)(e), 30.80(6)(d), 114.09(2)(bm), 343.16(5)(a), 343.30(1q), 343.305(10) or 350.11(3)(d) shall pay a reasonable fee therefor to the appropriate county department under s. 51.42 or traffic safety school under s. 345.60. A county may allow the person to pay the assessment fee in 1, 2, 3 or 4 equal installments. The fee for the airman or driver safety plan may be reduced or waived if the person is unable to pay the complete fee, but no fee for assessment or attendance at a traffic safety school under s. 345.60 may be reduced or waived. Nonpayment of the assessment fee is noncompliance with the court order that required completion of an assessment and airman or driver safety plan. Upon a finding that the person has the ability to pay, nonpayment of the airman or driver safety plan fee is noncompliance with the court order that required completion of an assessment and airman or driver safety plan.

(fm) Notwithstanding par. (a), any person who submits to an assessment under s. 961.472 shall pay a fee to the appropriate county department under s. 51.42. The department of health services shall set fees for each county department under s. 51.42 designed to offset all the costs to the county in providing the assessment program. The department of health services shall provide for the reduction or waiver of the fee for persons who are unable to pay the complete fee.

- (g) The department shall return to county departments under s. 46.215, 46.22, 51.42 or 51.437 50% of collections made by the department on and after January 1, 1978, for delinquent accounts previously delegated under par. (e) and then referred back to the department for collections.
- (19) Protective services. Administer the statewide program of protective services under ch. 55.
- (20) Payment of benefits. (a) Except for payments provided under ch. 48 or subch. III of ch. 49, the department may make payments directly to recipients of public assistance or to such persons authorized to receive such payments in accordance with law and rules of the department on behalf of the counties. Except for payments provided under ch. 48 or subch. III of ch. 49, the department may charge the counties for the cost of operating public assistance systems which make such payments.
- (b) The department may make social service payments directly to recipients, vendors or providers in accordance with law and rules of the department on behalf of the counties which have contracts to have such payments made on their behalf.
- (c) The county department under s. 46.215, 46.22 or 46.23 shall provide the department with information which the department shall use to determine each person's eligibility and amount of payment. The county department under s. 46.215, 46.22 or 46.23 shall provide the department all necessary information in the manner prescribed by the department.
- (d) The department shall disburse from state or federal funds or both the entire amount and charge the county for its share under s. 46.495.
- (22) Community living arrangements for adults. (a) In this subsection, "community living arrangement for adults" means a community-based residential facility, as defined in s. 50.01(1g).
- (b) Community living arrangements for adults shall be subject to the same building and housing ordinances, codes, and regulations of the municipality or county as similar residences located in the area in which the facility is located.
- (c) The department shall designate a subunit to keep records and supply information on community living arrangements for adults under ss. 59.69(15)(f), 60.63(7), and 62.23(7)(i)6. The subunit shall be responsible for receiving all complaints regarding community living arrangements for adults and for coordinating all necessary investigatory and disciplinary actions under the laws of this state and under the rules of the department relating to the licensing of community living arrangements for adults.
- (d) A community living arrangement for adults with a capacity for 8 or fewer persons shall be a permissible use for purposes of any deed covenant which limits use of property to single-family or 2-family residences. A community living arrangement for adults with a capacity for 15 or fewer persons shall be a permissible use for purposes of any deed covenant which limits use of property to more than 2-family residences. Covenants in deeds which expressly prohibit use of property for community living arrangements for adults are void as against public policy.
- (e) If a community living arrangement for adults is required to obtain special zoning permission, as defined in s. 59.69(15)(g), the department shall, at the request of the unit of government responsible for granting the special zoning permission, inspect the proposed facility and review the program proposed for the facility. After such inspection and review, the department shall transmit to the unit of government responsible for granting the special zoning permission a statement that the proposed facility and its proposed program have been examined and are either approved or disapproved by the department.

- (25) Uniform regulation and licensing. The department shall promulgate rules to establish licensing and program compliance standards for care and residential facilities, hospitals, hotels, restaurants and the vending of food and beverages after due consideration of the relationship of a licensing code to other related licensing codes, the need for uniform administration, the need to maximize the use of federal funds and the need to encourage the development and operation of needed facilities statewide. In establishing licensing standards designed to ensure that the facility qualifies for federal financial participation, the department shall establish federal regulations as the base requirement. The department may promulgate such additional health and safety standards as it determines to be in the public interest.
- (26) Data processing projects. Submit a report each December 31 to the joint committee on finance and to the chief clerk of each house of the legislature, for distribution to the appropriate standing committees under s. 13.172(3), regarding the data processing projects under development. The report shall include:
- (a) The schedule for implementation;
  - (b) Estimates of development and operating costs; and
  - (c) Proposed methods of determining charges for service where applicable.
- (30) Primary psychiatric care contracts. (a) To provide for an orderly reduction of state institutional primary psychiatric services the department may approve the institutes entering into contracts with county departments under s. 51.42 for providing primary psychiatric care. If excess capacity exists at state operated mental health institutes, the department shall, subject to ss. 13.48(14)(am) and 16.848(1), explore the possible sale or lease of such excess facilities to a county department under s. 51.42.
- (b) No contract may be approved for a period of time greater than one year, and no contract shall be approved except under par. (c).
  - (c) The counties where the mental health institutes are located may contract with the institutes for primary psychiatric care on an ongoing basis, which contracts shall be approved by the department and shall be renewed annually.
- (33) Relief; American Indians. The department may negotiate and enter into an agreement with any appropriate agency of the federal government for provision of relief to needy American Indians.
- (34) Fetal alcohol syndrome and drug danger pamphlets. The department shall acquire, without cost if possible, pamphlets that describe the causes and effects of fetal alcohol syndrome and the dangers to a fetus of the mother's use of cocaine or other drugs during pregnancy and shall distribute the pamphlets free of charge to each county clerk in sufficient quantities so that each county clerk may provide pamphlets to marriage license applicants under s. 765.12(1)(a).
- (37) First aid instruction. In connection with first aid and cardiopulmonary resuscitation instruction to fitness center employees required under s. 100.178, do all of the following:
- (a) Promulgate rules establishing standards and procedures under s. 100.178 (5)(a) to (c).
  - (b) Approve individuals, organizations or institutions of higher education which teach fitness center employees basic first aid and basic cardiopulmonary resuscitation under s. 100.178 (2).
- (38) Automatic external defibrillator instruction. Approve individuals, organizations, or institutions of higher education to provide instruction in the use of an automated external defibrillator, as defined in s.

256.15(1)(cr), for persons who are required as a condition of licensure, certification, or registration to have current proficiency in the use of an automatic external defibrillator.

- (40) Grants for pilot programs or demonstration projects. Comply with all of the following whenever the department provides a grant after August 15, 1991, for a pilot program or demonstration project:
- (c) State on the grant application that the funding for the program or project will be provided by the department once or for a limited period of time, whichever is applicable.
  - (d) Require the applicant to provide, as part of the grant application, a plan that describes:
    - 1. How activities funded by the grant will be phased out or how the program or project will be eliminated; or
    - 2. What other funding sources will be available to support the program or project when state funding is eliminated.
- (41) Consolidation of allocated tribal funds. The department may consolidate funds appropriated under s. 20.435 that are authorized or required to be allocated to federally recognized American Indian tribes or bands into a single distribution for each tribe or band in each fiscal year.
- (42) Administrative hearing and appeals. Any hearing under s. 227.42 granted by the department may be conducted before the division of hearings and appeals in the department of administration.
- (43) Compulsive gambling awareness campaigns. From the appropriation account under s. 20.435(5)(kg), award grants to one or more individuals or organizations in the private sector to conduct compulsive gambling awareness campaigns.
- (44) Sexually transmitted disease treatment information. Prepare and keep current an information sheet to be distributed to a patient by a physician, physician assistant, or certified advanced practice nurse prescriber providing expedited partner therapy to that patient under s. 448.035. The information sheet shall include information about sexually transmitted diseases and their treatment and about the risk of drug allergies. The information sheet shall also include a statement advising a person with questions about the information to contact his or her physician, pharmacist, or local health department, as defined in s. 250.01(4).

### **WI ST 968.38. Testing for HIV infection and certain diseases**

- (1) In this section:
- (a) “Health care professional” means a physician or a registered nurse or licensed practical nurse who is licensed under ch. 441.
  - (b) “HIV” means any strain of human immunodeficiency virus, which causes acquired immunodeficiency syndrome.
    - (bc) “HIV test” has the meaning given in s. 252.01(2m).
    - (bm) “Physician” has the meaning given in s. 448.01(5).
  - (c) “Sexually transmitted disease” has the meaning given in s. 252.11(1).
  - (d) “Significant exposure” has the meaning given in s. 252.15(1)(em).

- (2) In a criminal action under s. 940.225, 948.02, 948.025, 948.05, 948.06, 948.085, or 948.095, if all of the following apply, the district attorney shall apply to the circuit court for his or her county to order the defendant to submit to an HIV test and to a test or a series of tests to detect the presence of a sexually transmitted disease, each of which tests shall be administered by a health care professional, and to disclose the results of the test or tests as specified in sub. (4)(a) to (c):
- (a) The district attorney has probable cause to believe that the alleged victim or victim has had contact with body fluid of the defendant that constitutes a significant exposure. If the defendant is convicted or found not guilty by reason of mental disease or defect, this paragraph does not apply.
  - (b) The alleged victim or victim who is not a minor or the parent or guardian of the alleged victim or victim who is a minor requests the district attorney to so apply for an order.
- (2m) In a criminal action under s. 946.43(2m), the district attorney shall apply to the circuit court for his or her county for an order requiring the defendant to submit to a test or a series of tests administered by a health care professional to detect the presence of communicable diseases and to disclose the results of the test or tests as specified in sub. (5)(a) to (c), if all of the following apply:
- (a) The district attorney has probable cause to believe that the act or alleged act of the defendant that constitutes a violation of s. 946.43(2m) carried a potential for transmitting a communicable disease to the victim or alleged victim and involved the defendant's blood, semen, vomit, saliva, urine or feces or other bodily substance of the defendant.
  - (b) The alleged victim or victim who is not a minor or the parent or guardian of the alleged victim or victim who is a minor requests the district attorney to apply for an order.
- (3) The district attorney may apply under sub. (2) or (2m) for an order at any of the following times, and, within those times, shall do so as soon as possible so as to enable the court to provide timely notice:
- (a) At or after the initial appearance and prior to the preliminary examination.
  - (b) If the defendant waives the preliminary examination, at any time after the court binds the defendant over for trial and before a verdict is rendered.
  - (c) At any time after the defendant is convicted or is found not guilty by reason of mental disease or defect.
  - (d) If the court has determined that the defendant is not competent to proceed under s. 971.14 (4) and suspended the criminal proceedings, at any time after the determination that the defendant is not competent to proceed.
- (4) The court shall set a time for a hearing on the matter under sub. (2) during the preliminary examination, if sub. (3)(a) applies; after the defendant is bound over for trial and before a verdict is rendered, if sub. (3)(b) applies; after conviction or a finding of not guilty by reason of mental disease or defect, if sub. (3)(c) applies; or, subject to s. 971.13(4), after the determination that the defendant is not competent, if sub. (3)(d) applies. The court shall give the district attorney and the defendant notice of the hearing at least 72 hours prior to the hearing. The defendant may have counsel at the hearing, and counsel may examine and cross-examine witnesses. If the court finds probable cause to believe that the victim or alleged victim has had contact with body fluid of the defendant that constitutes a significant exposure, the court shall order the defendant to submit to an HIV test and to a test or a series of tests to detect the presence of a sexually transmitted disease. The tests shall be performed by a health care professional. The court shall require the health care professional who performs the test to disclose the test results to the defendant, to refrain

from making the test results part of the defendant's permanent medical record, and to disclose the results of the test to any of the following:

- (a) The alleged victim or victim, if the alleged victim or victim is not a minor.
- (b) The parent or guardian of the alleged victim or victim, if the alleged victim or victim is a minor.
- (c) The health care professional who provides care to the alleged victim or victim, upon request by the alleged victim or victim or, if the alleged victim or victim is a minor, by the parent or guardian of the alleged victim or victim.

(5) The court shall set a time for a hearing on the matter under sub. (2m) during the preliminary examination, if sub. (3)(a) applies; after the defendant is bound over for trial and before a verdict is rendered, if sub. (3)(b) applies; after conviction or a finding of not guilty by reason of mental disease or defect, if sub. (3)(c) applies; or, subject to s. 971.13(4), after the determination that the defendant is not competent, if sub. (3)(d) applies. The court shall give the district attorney and the defendant notice of the hearing at least 72 hours prior to the hearing. The defendant may have counsel at the hearing, and counsel may examine and cross-examine witnesses. If the court finds probable cause to believe that the act or alleged act of the defendant that constitutes a violation of s. 946.43(2m) carried a potential for transmitting a communicable disease to the victim or alleged victim and involved the defendant's blood, semen, vomit, saliva, urine or feces or other bodily substance of the defendant, the court shall order the defendant to submit to a test or a series of tests administered by a health care professional to detect the presence of any communicable disease that was potentially transmitted by the act or alleged act of the defendant. The court shall require the health care professional who performs the test to disclose the test results to the defendant. The court shall require the health care professional who performs the test to refrain from making the test results part of the defendant's permanent medical record and to disclose the results of the test to any of the following:

- (a) The alleged victim or victim, if the alleged victim or victim is not a minor.
- (b) The parent or guardian of the alleged victim or victim, if the alleged victim or victim is a minor.
- (c) The health care professional who provides care to the alleged victim or victim, upon request by the alleged victim or victim or, if the alleged victim or victim is a minor, by the parent or guardian of the alleged victim or victim.

### **WI ST 973.017. Bifurcated sentences; use of guidelines; consideration of...**

(1) Definition. In this section, "sentencing decision" means a decision as to whether to impose a bifurcated sentence under s. 973.01 or place a person on probation and a decision as to the length of a bifurcated sentence, including the length of each component of the bifurcated sentence, the amount of a fine, and the length of a term of probation.

(2) General requirement. When a court makes a sentencing decision concerning a person convicted of a criminal offense committed on or after February 1, 2003, the court shall consider all of the following:

- (ad) The protection of the public.
- (ag) The gravity of the offense.
- (ak) The rehabilitative needs of the defendant.
- (b) Any applicable mitigating factors and any applicable aggravating factors, including the aggravating factors specified in subs. (3) to (8).

(3) Aggravating factors; generally. When making a sentencing decision for any crime, the court shall consider all of the following as aggravating factors:

- (a) The fact that the person committed the crime while his or her usual appearance was concealed, disguised, or altered, with the intent to make it less likely that he or she would be identified with the crime.
- (b) The fact that the person committed the crime using information that was disclosed to him or her under s. 301.46.
- (c) The fact that the person committed the crime for the benefit of, at the direction of, or in association with any criminal gang, as defined in s. 939.22(9), with the specific intent to promote, further, or assist in any criminal conduct by criminal gang members, as defined in s. 939.22(9g).
- (d) The fact that the person committed the felony while wearing a vest or other garment designed, redesigned, or adapted to prevent bullets from penetrating the garment.
- (e) 1. Subject to subd. 2., the fact that the person committed the felony with the intent to influence the policy of a governmental unit or to punish a governmental unit for a prior policy decision, if any of the following circumstances also applies to the felony committed by the person:
  - a. The person caused bodily harm, great bodily harm, or death to another.
  - b. The person caused damage to the property of another and the total property damaged is reduced in value by \$25,000 or more. For the purposes of this subd. 1.b., property is reduced in value by the amount that it would cost either to repair or to replace it, whichever is less.
  - c. The person used force or violence or the threat of force or violence.
2.
  - a. In this subdivision, "labor dispute" includes any controversy concerning terms, tenure, or conditions of employment or concerning the association or representation of persons in negotiating, fixing, maintaining, changing, or seeking to arrange terms or conditions of employment, regardless of whether the disputants stand in the proximate relation of employer and employee.
  - b. Subdivision 1. does not apply to conduct arising out of or in connection with a labor dispute.

(4) Aggravating factors; serious sex crimes committed while infected with certain diseases. (a) In this subsection:

1. "HIV" means any strain of human immunodeficiency virus, which causes acquired immunodeficiency syndrome.
  - 1m. "HIV test" has the meaning given in s. 252.01(2m).
2. "Serious sex crime" means a violation of s. 940.225(1) or (2), 948.02(1) or (2), 948.025, 948.085.
3. "Sexually transmitted disease" means syphilis, gonorrhea, hepatitis B, hepatitis C, or chlamydia.
4. "Significantly exposed" means sustaining a contact that carries a potential for transmission of a sexually transmitted disease or HIV by one or more of the following:
  - a. Transmission, into a body orifice or onto mucous membrane, of blood; semen; vaginal secretions; cerebrospinal, synovial, pleural, peritoneal, pericardial, or amniotic fluid; or other body fluid that is visibly contaminated with blood.
  - b. Exchange, during the accidental or intentional infliction of a penetrating wound, including a needle puncture, of blood; semen; vaginal secretions; cerebrospinal, synovial, pleural, peritoneal, pericardial, or amniotic fluid; or other body fluid that is visibly contaminated with blood.

- c. Exchange, into an eye, an open wound, an oozing lesion, or other place where a significant breakdown in the epidermal barrier has occurred, of blood; semen; vaginal secretions; cerebrospinal, synovial, pleural, peritoneal, pericardial, or amniotic fluid; or other body fluid that is visibly contaminated with blood.

(b) When making a sentencing decision concerning a person convicted of a serious sex crime, the court shall consider as an aggravating factor the fact that the serious sex crime was committed under all of the following circumstances:

1. At the time that he or she committed the serious sex crime, the person convicted of committing the serious sex crime had a sexually transmitted disease or acquired immunodeficiency syndrome or had had a positive HIV test .
2. At the time that he or she committed the serious sex crime, the person convicted of committing the serious sex crime knew that he or she had a sexually transmitted disease or acquired immunodeficiency syndrome or that he or she had had a positive HIV test .
3. The victim of the serious sex crime was significantly exposed to HIV or to the sexually transmitted disease, whichever is applicable, by the acts constituting the serious sex crime.

(5) Aggravating factors; violent felony committed against elder person. (a) In this subsection:

1. "Elder person" means any individual who is 62 years of age or older.
2. "Violent felony" means any felony under s. 940.19(2), (4), (5), or (6), 940.225(1), (2), or (3), 940.23, or 943.32.

(b) When making a sentencing decision concerning a person convicted of a violent felony, the court shall consider as an aggravating factor the fact that the victim of the violent felony was an elder person. This paragraph applies even if the person mistakenly believed that the victim had not attained the age of 62 years.

(6) Aggravating factors; child sexual assault or child abuse by certain persons. (a) In this subsection, "person responsible for the welfare of the child" includes the child's parent, stepparent, guardian, or foster parent; an employee of a public or private residential home, institution, or agency; any other person legally responsible for the child's welfare in a residential setting; or a person employed by one who is legally responsible for the child's welfare to exercise temporary control or care for the child.

(b) When making a sentencing decision concerning a person convicted of a violation of s. 948.02(1) or (2), 948.025(1), 948.03(2) or (3), or 948.051, the court shall consider as an aggravating factor the fact that the person was a person responsible for the welfare of the child who was the victim of the violation.

(6m) Aggravating factors; domestic abuse in presence of a child. (a) In this subsection:

1. "Child" means an individual who has not attained the age of 18 years.
2. "Domestic abuse" has the meaning given in s. 968.075(1)(a).

(b) When making a sentencing decision concerning a person convicted of a crime that involves an act of domestic abuse, the court shall consider as an aggravating factor the fact that the act was committed in a place or a manner in which the act was observable by or audible to a child or was in the presence

of a child and the actor knew or had reason to know that the act was observable by or audible to a child or was in the presence of a child.

- (7) Aggravating factors; homicide or injury by intoxicated use of a vehicle. When making a sentencing decision concerning a person convicted of a violation of s. 940.09(1) or 940.25(1), the court shall consider as an aggravating factor the fact that, at the time of the violation, there was a minor passenger under 16 years of age or an unborn child in the person's motor vehicle.
- (8) Aggravating factors; controlled substances offenses. (a) Distribution or delivery to prisoners.
1. In this paragraph, "precinct" means a place where any activity is conducted by a prison, jail, or house of correction.
  2. When making a sentencing decision concerning a person convicted of violating s. 961.41(1) or (1m), the court shall consider as an aggravating factor the fact that the violation involved delivering, distributing, or possessing with intent to deliver or distribute a controlled substance or controlled substance analog to a prisoner within the precincts of any prison, jail, or house of correction.
  3. When making a sentencing decision concerning a person convicted of violating s. 961.65, the court shall consider as an aggravating factor the fact that the person intended to deliver or distribute methamphetamine or a controlled substance analog of methamphetamine to a prisoner within the precincts of any prison, jail, or house of correction.
- (b) Distribution or delivery on public transit vehicles. When making a sentencing decision concerning a person convicted of violating s. 961.41(1) or (1m), the court shall consider as an aggravating factor the fact that the violation involved delivering, distributing, or possessing with intent to deliver or distribute a controlled substance included in schedule I or II or a controlled substance analog of any controlled substance included in schedule I or II and that the person knowingly used a public transit vehicle during the violation.
- (c) When making a sentencing decision concerning a person convicted of violating s. 961.65, the court shall consider as an aggravating factor the fact that the person intended to deliver or distribute methamphetamine or a controlled substance analog of methamphetamine and that the person knowingly used a public transit vehicle during the violation.
- (9) Aggravating factors not an element of the crime. The aggravating factors listed in this section are not elements of any crime. A prosecutor is not required to charge any aggravating factor or otherwise allege the existence of an aggravating factor in any pleading for a court to consider the aggravating factor when making a sentencing decision.
- (10m) Statement of reasons for sentencing decision.
- (a) The court shall state the reasons for its sentencing decision and, except as provided in par. (b), shall do so in open court and on the record.
  - (b) If the court determines that it is not in the interest of the defendant for it to state the reasons for its sentencing decision in the defendant's presence, the court shall state the reasons for its sentencing decision in writing and include the written statement in the record.

## WYOMING

### WY ST § 26-18-103. General requirements for policies

- (a) No disability insurance policy shall be delivered or issued for delivery to any person in this state unless it otherwise complies with this code [title 26] and the following:
- i. The entire money and other considerations therefor shall be expressed in the policy;
  - ii. The time when the insurance takes effect and terminates shall be expressed in the policy;
  - iii. It shall purport to insure only one (1) person, except that a policy may insure, originally or by subsequent amendment, upon the application of an adult member of a family, who is deemed the policyholder, any two (2) or more eligible members of that family, including husband, wife, dependent children or any children under a specified age not exceeding nineteen (19) years and any other person dependent upon the policyholder;
  - iv. The style, arrangement and overall appearance of the policy shall give no undue prominence to any portion of the text, and any printed portion of the text and any endorsements or attached papers shall be plainly printed in lightfaced type of a style in general use, the size of which shall be uniform and not less than ten (10) point with a lower case unspaced alphabet length not less than one hundred twenty (120) point;
  - v. The "text" shall include all printed matter except the insurer's name and address, the policy name or title, the brief description, if any, and captions and subcaptions;
  - vi. The exceptions and reductions of indemnity shall be set forth in the policy and, other than those contained in .S. 26-18-105 through 26-18-127, shall be printed, at the insurer's option, either included with the benefit provision to which they apply or under an appropriate caption such as "Exceptions", or "Exceptions and Reductions", except that if an exception or reduction specifically applies to a particular policy benefit, a statement of that exception or reduction shall be included with the benefit provision to which it applies;
  - vii. Each form, including riders and endorsements, shall be identified by a form number in the lower left-hand corner of the first page;
  - viii. The policy shall not contain any provision purporting to make any portion of the insurer's charter, rules, constitution or bylaws a part of the policy unless that portion is set forth in full in the policy, except in the case of the incorporation of or reference to a statement of rates, classification of risks or short-rate table filed with the commissioner;
  - ix. If issued or delivered on or after January 1, 1999, the policy shall provide a notice on the face of the policy of not less than fourteen (14) point bold type, as to the extent to which the policy includes comprehensive adult wellness benefits as defined in subsection (b) of this section. To insure that the disclosure has been made, the notice shall include space for the signature of the policyholder and the sales representative on the disclosure statement. The disclosure statement must be signed by the applicant and sales representative at the time of the policy application. No policy shall be represented as containing comprehensive adult wellness benefits unless the policy meets the criteria specified under subsection (b) of this section. If coverage is included, the notice shall make reference to the exact location within the policy where the level and extent of coverage is described in detail. If coverage is not included, the notice shall state that the policy does not contain comprehensive adult wellness benefits as defined by law. This statement shall also be placed in a prominent location on any materials used in representing the policy, including sales materials. The department of insurance shall prescribe the form and content of the notice required under this paragraph. This paragraph does not apply to any policy with a deductible of five thousand dollars (\$5,000.00) or more.

- (b) As used in paragraph (a)(ix) of this section, “comprehensive adult wellness benefits” means benefits not subject to policy deductibles, which provide a minimum benefit equal to eighty percent (80%) of the reimbursement allowance under the private health benefit plan with a maximum of twenty percent (20%) coinsurance by the insured and which provide a benefit structure to the insured equal to a minimum of one hundred fifty dollars (\$150.00) per insured adult per calendar year, or a benefit structure of similar actuarial value to the insured. In addition, the benefits shall at minimum provide for testing procedures and for the examination of adult policyholders and their spouses for breast cancer, prostate cancer, cervical cancer and diabetes.

### **WY ST § 33-46-103. Board of midwifery**

- (a) The board of midwifery is established. The board shall regulate the practice of midwifery in the state to ensure the safety of women and newborn children receiving care from midwives.
- (b) The board shall license as a midwife any person who applies in the manner prescribed by the board in rules and regulations and who:
- i. Pays the fees established by the board pursuant to this act;
  - ii. Has graduated from a midwifery education program accredited by the midwifery education accreditation council, or a similar successor organization, or has five (5) years experience practicing as a licensed or certified midwife in another state;
  - iii. Provides proof of current certification as a certified professional midwife by the North American registry of midwives or its successor organization;
  - iv. Has completed a practicum or course of practical experience meeting the requirements established by rule and regulation of the board;
  - v. Has provided the board with evidence of successful completion of board approved courses in the treatment of respiratory distress in newborns, pharmacology, the treatment of shock, intravenous therapy and suturing specific to midwives. The board may accept graduation from an accredited program as provided by paragraph (ii) of this subsection as satisfying this requirement if those programs adequately cover these subjects;
  - vi. Has provided the board fingerprints and other information necessary for a criminal history record background check as provided under . S. 7-19-201;
  - vii. Has successfully completed a personal interview with the board, if the board deems an interview appropriate in general or in a specific case;
  - viii. Has not provided materially false or misleading information to the board;
  - ix. Has not been convicted of a crime which in the judgment of the board renders the person unfit to practice midwifery.
- (c) The board may by endorsement license any person as a midwife who applies in the manner prescribed by the board and who:
- i. Pays the fees established by the board pursuant to this act;
  - ii. Is currently licensed or certified by any state with requirements at least as stringent as this state and is in good standing in that state;
  - iii. Has successfully completed a personal interview with the board if the board deems an interview appropriate in general or in a specific case;
  - iv. Has provided the board fingerprints and other information necessary for a criminal history record background check as provided under . S. 7-19-201;

- v. Has not provided materially false or misleading information to the board;
  - vi. Has not been convicted of a crime which in the judgment of the board renders the person unfit to practice midwifery; (vii) Has not been sanctioned in another state without resolution satisfactory to the board.
- (d) The period of licensure shall be two (2) years and the board shall renew the license upon application, payment of fees and completion of any required continuing education, absent cause to take action pursuant to subsection (e) of this section.
- (e) The board may revoke, suspend or condition the license of a midwife or require the midwife to practice for a time under the supervision of a person licensed under the Medical Practice A <sup>1</sup> ct, a certified nurse midwife or another midwife as appropriate if the board finds the midwife has committed any one (1) or more of the following:
- i. Been convicted of a crime which renders the person unfit to practice midwifery;
  - ii. Violated this act;
  - iii. Abused or neglected women or newborns under the midwife's care;
  - iv. Failed to refer women or newborn children in need of care or at risk of needing care beyond the abilities of the midwife to an appropriate health care professional in accord with standards of the national association of certified professional midwives or other national midwife certifying agency established for such purpose which has been reviewed and approved by the board;
  - v. Provided a level or degree of care indicating a need for additional training of the midwife or additional professional supervision of the midwife.
- (f) The board may authorize its chairman or executive secretary, if any, to issue a provisional license allowing any of the following:
- i. Any person eligible for licensure to practice under the supervision of another midwife, a person licensed under the Medical Practice Act or a certified nurse midwife until the board has the opportunity to act on the person's application for licensure, however this paragraph shall not apply to any person whose license or certificate is under revocation, suspension or disciplinary restriction in another state;
  - ii. Any person undertaking the practicum required under this act to practice under the supervision of another midwife, a certified nurse midwife or a person licensed under the Medical Practice Act;
  - iii. Any person licensed or certified in another state with requirements at least as stringent as this state to practice for not more than thirty (30) days to provide education and instruction in midwifery or to act as a locum tenens for a midwife licensed under this act. The board may define by rule and regulation the number of times during a year a provisional license pursuant to this paragraph may be issued.
- (g) Unless otherwise provided in this act, hearing procedures shall be promulgated in accordance with, and a person aggrieved by a decision of the board may take an appeal pursuant to, the Wyoming Administrative Procedure A 2 ct.
- (h) The practice of midwifery in Wyoming prior to the effective date of this act shall not constitute grounds for the board to deny licensure to or to discipline any person who otherwise qualifies for licensure under this act.

- (j) The board shall make, adopt, amend, repeal and enforce reasonable rules and regulations necessary for the proper administration and enforcement of this act. The rules adopted by the board shall:
- (i) Develop uniform and reasonable scope of practice standards for midwifery consistent with .S. 33-46-102(a)(ii) and (iii), which shall, at a minimum:
- (A) Prohibit a licensed midwife from providing care for a client with any one (1) or more of the following pregnancy disorders, diagnoses, conditions or symptoms:
- I. Placental abnormality;
  - II. (II) Multiple gestation;
  - III. (III) Noncephalic presentation at the onset of labor or rupture of membranes, whichever occurs first;
  - IV. Birth under thirty-seven (37) weeks or after forty-two (42) weeks gestational age;
  - V. A history of more than one (1) prior cesarean section with no prior vaginal delivery, a cesarean section within eighteen (18) months of the current delivery or any cesarean section that was surgically closed with a classical or vertical incision;
  - VI. Rhesus factor or other blood group or platelet sensitization, hematological disorders or coagulation disorders; (VII) Preeclampsia;
  - VII. Cervical insufficiency or a history of cervical insufficiency.
- (B) Prohibit a licensed midwife from providing care for a client with a history of any one (1) or more of the following disorders, diagnoses, conditions or symptoms unless the disorder, diagnosis, condition or symptom is being treated, monitored and managed during the current pregnancy by a physician licensed under the Medical Practice Act:
- I. Diabetes;
  - II. (II) Thyroid disease; (III) Epilepsy;
  - III. Hypertension;
  - IV. Cardiac disease;
  - V. (VI) Pulmonary disease;
  - VI. (VII) Renal disease;
  - VII. (VIII) Previous major surgery of the pulmonary system, cardiovascular system, urinary tract or gastrointestinal tract;
  - VIII. (IX) Hepatitis.
- (C) Require a licensed midwife to recommend that a client see a physician licensed under the Medical Practice Act and to document and maintain a record if the client has a history of any one (1) or more of the following disorders, diagnoses, conditions or symptoms:
- I. Previous complicated pregnancy;
  - II. (II) Previous cesarean section;
  - III. (III) Previous pregnancy loss in second or third trimester;
  - IV. Previous spontaneous premature labor;
  - V. Previous preterm rupture of membranes;
  - VI. Previous preeclampsia;
  - VII. Previous hypertensive disease of pregnancy;

- VIII. Prior infection with parvo virus, toxoplasmosis, cytomegalovirus or herpes simplex virus; (IX) Previous newborn group B streptococcus infection;
- IX. A body mass index of thirty-five (35) or higher at the time of conception;
- X. Underlying family genetic disorders with potential for transmission;
- XI. Psychiatric illness.

(D) Require a licensed midwife to facilitate the immediate transfer to a hospital for emergency care, a client with any one (1) or more of the following disorders, diagnoses, conditions or symptoms:

- I. Maternal fever in labor;
- II. (II) Suggestion of fetal jeopardy such as significant bleeding, thick meconium or abnormal fetal heart tones without delivery imminent;
- III. (III) Noncephalic presentation at the onset of labor or rupture of membranes, whichever occurs first; (IV) Second stage of labor longer than two (2) hours without adequate progress;
- IV. Current spontaneous premature labor;
- V. Current preterm premature rupture of membranes;
- VI. Current preeclampsia;
- VII. Current hypertensive disease of pregnancy;
- VIII. Continuous uncontrolled bleeding;
- IX. Bleeding which necessitates the administration of more than two (2) doses of oxytocin or other antihemorrhagic agent;
- X. Delivery injuries to the bladder or bowel; (XII) Seizures;
- XI. Uncontrolled vomiting;
- XII. Coughing or vomiting of blood;
- XIII. Severe chest pain;
- XIV. Sudden onset of shortness of breath and associate labored breathing.

(E) Require that a licensed midwife recommend to the client that two (2) providers trained in neonatal resuscitation program be present at delivery;

(F) Require a licensed midwife to maintain records of all care provided to clients.

ii. Develop a protocol for written informed consent to treatment, which shall include all of the following:

- (A) The licensed midwife's experience and training;
- (B) Instructions for obtaining a copy of rules adopted by the board pursuant to this act;
- (C) Instructions for obtaining a copy of documents adopted by the national association of certified professional midwives that identify the nature of and standards of practice for responsible midwifery practice;
- (D) Instructions for filing complaints with the board;
- (E) Notice of the type and liability limits of professional or personal liability insurance maintained by the midwife or notice that the midwife does not carry liability insurance;
- (F) A written protocol for emergencies that is specific for each individual client, including the following provisions:
  - I. Transport to a hospital in an emergency;
  - II. (II) Notification of the hospital to which a client will be transferred upon initiation of the transfer;

- III. (III) Accompaniment of the client to the hospital by the midwife, if feasible, or telephone notice to the hospital if the midwife is unable to be present personally;
- IV. Transmission of the client's record to the hospital, including the client's name, address, list of known medical conditions, list of prescription or over the counter medications regularly taken, history of previous allergic reactions to medications, the client's current medical condition and description of the care provided by the midwife;
- V. Next of kin contact information.

(G) A description of the procedures, benefits and risks of home birth, primarily those conditions that may arise during delivery;

(H) Any other information required by board rule.

- iii. Define a protocol for the use of those drugs approved by the board for administration to mothers and babies. The protocol shall include amounts and methods of obtaining, storing and disposing of approved drugs, indications and contraindications for usage, dosage, route of administration and duration of treatment;
- iv. Define a protocol for management of newborns which shall at a minimum include immediate management of respiratory distress or other serious or potentially serious illness in the newborn, ensuring compliance with the newborn screening requirements of .S. 35-4-801 and ensuring compliance with the relevant portions of vital records reporting pursuant to .S. 35-1-401 through 35-1-431;
- v. Define a protocol for medical waste disposal;
- vi. Require midwives to report outcomes of all clients for which the midwife provided services at any point during labor or delivery to the board after each birth.

(k) Rules adopted by the board shall not:

- i. Require a licensed midwife to have a nursing degree or diploma;
- ii. Except as authorized by subsection (f) of this section or as a condition imposed as a disciplinary measure pursuant to .S. 33-46-103(e), require a licensed midwife to practice midwifery under the supervision of another health care provider;
- iii. Except as a condition imposed as a disciplinary measure pursuant to .S. 33-46-103(e), require a licensed midwife to enter into an agreement, written or otherwise, with another health care provider;
- iv. Limit the location where a licensed midwife may practice midwifery;
- v. Allow a licensed midwife to use vacuum extraction or forceps as an aid in the delivery of a newborn;
- vi. Grant a licensed midwife prescriptive privilege, except as provided in the protocol established pursuant to .S. 33-46-103(j)(iii);
- vii. Allow a licensed midwife to perform abortions.

(a) At no less than five (5) year intervals, the board shall examine the reports provided under paragraph (j)(vi) of this section to assess the efficacy of the program.

### **WY ST § 35-1-223. Cooperation to prevent spread of contagious...**

The department of health shall give all information that may be reasonably requested concerning any threatened danger to the public health, and the local health officers and all the state, county, city and town officers in the state shall give the like information to the state health officer, and the department and said

state, county, city and town officers, insofar as legal and practicable, shall cooperate to prevent the spread of diseases, and for the protection of life and the promotion of health within the sphere of their respective duties. When in any county, an epidemic or contagious or infectious disease including venereal diseases, is known to exist, it shall be the duty of the county health officer of such county to immediately notify the state health officer of the existence of the same, with such facts as to its cause and continuance as may then be known.

#### **WY ST § 35-1-229. Rules and regulations**

- (b) The state department of health is hereby empowered and directed to make such rules and regulations as shall in its judgment be necessary for the carrying out of the provisions of this act, including rules and regulations providing for the control and treatment of persons isolated or quarantined under the provisions of .S. 35-4-133 and 35-4-134, and such other rules and regulations not in conflict with provisions of this act concerning the control of venereal diseases and concerning the care, treatment and quarantine of persons infected therewith as it may from time to time deem advisable. All such regulations so made shall be of force and binding upon all county and municipal health officers and other persons affected by this act and shall have the force and effect of law; provided, further, that the expense incident to the quarantine and treatment of venereally infected persons in prisons shall be borne by the county in which the person or persons are imprisoned, excepting inmates of state institutions which shall be borne by the state, when evidenced by proper vouchers and receipts approved by the department of health.
- (c) The department of health may promulgate rules and regulations to set standards for the chemical, bacteriological, physical or radiological content of a small water supply and shall be applicable only when a legal interest in real property to which the small water supply is appurtenant is conveyed from one (1) party to another or when a conveyance is reasonably anticipated and when such standards are required by a lender. As used in this subsection, "small water supply" means any water supply with not more than nine (9) service connections, which is currently used for human consumption or for which plans exist for its future use for human consumption. The cost of any testing to determine the chemical, bacteriological, physical or radiological content of a small water supply shall be borne by the parties.

#### **WY ST § 35-4-104. Quarantine regulations generally; modification or...**

In case of the existence of smallpox, cholera, typhoid fever, scarlet fever, diphtheria, or any infectious or contagious disease, including venereal diseases, that is a menace to public health, or of any epidemic of any such disease, the state health officer may, if he deems proper, proceed to the locality where such disease exists, and make such investigation as is necessary to ascertain the cause therefor, and in case of quarantine established by the county health officer, the state health officer shall have power after close personal inspection, to modify or abrogate any or all quarantine regulations after the same have been established.

#### **WY ST § 35-4-130. Declared contagious and dangerous to health; list...**

- (a) Sexually transmitted diseases as included within the list of reportable diseases of the department of health are contagious, infectious, communicable and dangerous to public health.
- (b) The department of health shall by rule and regulation develop a list of reportable sexually transmitted diseases including all venereal diseases and acquired immune deficiency syndrome. The list shall be available to all physicians, health officers, hospitals and other health care providers and facilities within the state.

- (c) Any person violating .S. 35-4-130 through 35-4-134 or failing or refusing to comply with any order lawfully issued under .S. 35-4-130 through 35-4-134 is guilty of a misdemeanor punishable by a fine of not more than seven hundred fifty dollars (\$750.00), imprisonment for not more than six (6) months, or both.

#### **WY ST § 35-4-131. Consent of minors to treatment; treatment of...**

- (a) Persons under eighteen (18) years of age may give legal consent for examination and treatment for any sexually transmitted disease infection.
- (b) For the protection of public health, a physician, health officer or other person or facility providing health care in accordance with state or federal law shall for any individual regardless of age, sex, race or color:
- i. If reasonably suspected of being infected with any sexually transmitted disease, administer, refer for or recommend appropriate and adequate treatment;
  - ii. If exposed to any sexually transmitted disease, recommend or offer treatment.
- (c) Physical examination and treatment by a licensed physician or other qualified health care provider of a person under eighteen (18) years of age consenting to examination or treatment is not an assault or an assault and battery upon that person.

#### **WY ST § 35-4-132. Report required of health care providers, facilities...**

- (a) A physician or other health care provider diagnosing or treating a case of sexually transmitted disease, the administrator of a hospital, dispensary, charitable or penal institution or any other health care facility in which there is a case of sexually transmitted disease and the administrator or operator of a laboratory performing a positive laboratory test for sexually transmitted disease shall report the diagnosis, case or positive test results to both the department of health and the appropriate health officer in a form and manner directed by the department. Health care providers and facilities shall cooperate with and assist the department and health officers in preventing the spread of sexually transmitted disease.
- (b) The department of health shall compile the number of reported cases within the state.
- (c) Any physician or other health care provider and any administrator or operator of a health care facility or laboratory reporting a diagnosis, case or positive test result pursuant to subsection (a) of this section shall notify any health care professional and health care employee reasonably expected to be at risk of exposure to a dangerous or life-threatening sexually transmitted disease and involved in the supervision, care and treatment of an individual infected or reasonably suspected of being infected with a dangerous or life-threatening sexually transmitted disease.
- (d) Information and records relating to a known or suspected case of sexually transmitted disease which has been reported, acquired and maintained under .S. 35-4-130 through 35-4-134 are confidential and except as otherwise required by law, shall not be disclosed unless the disclosure is:
- i. For statistical purposes, provided that the identity of the individual with the known or suspected case is protected;

- ii. Necessary for the administration and enforcement of .S. 35-4-130 through 35-4-134 and department rules and regulations related to the control and treatment of sexually transmitted diseases;
- iii. Made with the written consent of the individual identified within the information or records; or
- iv. For notification of health care professionals and health care employees pursuant to subsection (c) of this section as necessary to protect life and health.

### **WY ST § 35-4-133. Examination and treatment of infected persons;...**

- (a) Upon receipt of a report or notice of a case or a reasonably suspected case of sexually transmitted disease infection, a health officer within his respective jurisdiction:
  - i. May isolate the individual in accordance with existing standards of medical practice;
  - ii. If examination has not been performed, may provide for the examination of the infected individual or the individual reasonably suspected of suffering from a sexually transmitted disease and shall report the examination results to the individual;
  - iii. May require the infected individual to seek adequate treatment or, subject to subsection (d) of this section, may require the individual to submit to treatment at public expense; and
  - iv. May arrange for education and counseling of the infected individual as to the medical significance of the sexually transmitted disease.
- (b) To the extent possible, the health officer shall identify any other person with whom the infected individual has had contact which may have resulted in significant exposure of that person to a dangerous or life-threatening sexually transmitted disease. For purposes of this subsection, "significant exposure" means:
  - i. Contact of an emergency medical services provider's broken skin or mucous membrane with the infected individual's blood or bodily fluids other than tears or perspiration;
  - ii. That a needle stick, or scalpel or other instrument wound has occurred in the process of caring for the infected individual; (iii) Sexual contact;
  - iii. Exposure that occurs by any other method of transmission defined by the department as a significant exposure; or
  - iv. Exposure that occurs during the course of examination or treatment by dental care providers.
- (c) To the extent possible, a health officer shall make every reasonable effort to notify any person identified in subsection (b) of this section of his possible exposure to a sexually transmitted disease. Such notification shall include the name of the sexually transmitted disease to which the person may have been exposed, the approximate date of possible exposure, and shall advise the person of the nature of the disease and sources for education and counseling as to the medical significance of the disease. The health officer shall not provide information as to the specific identity of the infected individual unless the health officer has received written authorization for release of information from the infected individual.
- (d) Public funds appropriated for treatment of any individual infected with a sexually transmitted disease shall be spent in accordance with priorities established by the department of health. In establishing priorities, the department shall consider the treatment's cost, effectiveness, curative capacity and public health benefit to the state.
- (e) A health officer shall investigate sources of sexually transmitted disease, cooperate with the proper law enforcement officials in enforcing laws against prostitution and otherwise assist in the suppression of prostitution.

(f) Upon receipt of information documenting an actual exposure of a health care worker as provided in paragraphs (b)(i) and (ii) of this section to blood or body fluids of a patient where the exposure could lead to a communicable disease infection which is capable of transmission by blood or other body fluids, a health care provider acting within his scope of practice may order appropriate testing to be performed on a specimen from the patient by a duly licensed and accredited laboratory. If the patient's specimen is not available for testing, a health care provider acting within his scope of practice, or county health officer may, with the patient's consent, order the necessary testing according to the rules and regulations promulgated by the Wyoming department of health. If the patient does not consent to testing, the county health officer or the authority responsible for the care of the patient may apply to the district court for an order to have the necessary testing performed. Test results will be kept confidential and will be reported by the health care provider in accordance with .S. 35-4-130 through 35-4-134. Reports to the department of health shall be made on an official state disease case report form or the report may be made by telephone with confirmation by the written form. For purposes of this section, "health care worker" means all personnel involved in the care of a patient, including first responders, such as law enforcement officers, rescue personnel and those acting as good samaritans.

#### **WY ST § 35-4-134. Examination and treatment of prisoners**

- (a) Any individual confined or imprisoned in any state penal institution, county or city jail or any community correctional facility shall be examined for sexually transmitted diseases by the appropriate health officer or his qualified designee.
- (b) To suppress the spread of sexually transmitted disease among the confined population, the health officer or his qualified designee may:
  - i. Isolate prisoners infected with a treatable illness within the facility and require them to report for treatment by a licensed physician; or
  - ii. In the case of an individual infected with a noncurable sexually transmitted disease, provide for the minimum care and treatment of the individual pursuant to rules promulgated by the department of health with the advice of the department of corrections.
- (c) Nothing herein contained shall be construed to interfere with the service of any sentence imposed by a court as a punishment for the commission of a crime.

#### **WY ST § 7-1-109. Examination for sexually transmitted diseases required...**

- (a) Upon the consent of a person accused of any crime wherein it is alleged that there has been an exchange of bodily fluids, that person shall be examined as soon as practicable, but not later than forty-eight (48) hours after the date on which the information or indictment is presented, for sexually transmitted diseases included within the list of reportable diseases developed by rule and regulation of the department of health pursuant to .S. 35-4-130(b).
- (b) For cases in which a person is accused of any crime wherein it is alleged that there has been an exchange of bodily fluids and the accused person is unwilling or unable to give consent as provided in subsection (a) of this section, or when, for any reason it is impractical to seek consent under subsection (a) of this section, the court may by warrant, upon a sufficient showing of probable cause by affidavit, at any time of

day or night, order the medical examination of the accused person for sexually transmitted diseases included within the list of reportable diseases developed by rule and regulation of the department of health pursuant to .S. 35-4-130(b). Testing for sexually transmitted diseases done under this subsection shall be conducted as soon as practicable, but no later than forty-eight (48) hours after the date on which the information or indictment is presented.

- (c) Any person convicted of a sex offense shall, at the request of the victim, be examined as soon as practicable, but not later than forty-eight (48) hours after the conviction for sexually transmitted diseases included in the list specified in subsection (a) of this section. The victim shall make the request to the district attorney responsible for prosecuting the offense. If the offender is unwilling or unable to consent to the examination the district attorney shall petition the court for an order requiring the offender to submit to the examination.
- (d) Any examination performed under this section shall be performed by a licensed physician or other health care provider. The examination shall be in accordance with procedures prescribed by the department of health under . S. 35-4-130 through 35-4-134 and the examination results shall be reported to the appropriate health officer. Upon receipt of the examination results, the health officer shall notify the victim, the alleged victim or if a minor, the parents or guardian of the victim or the alleged victim. Additional testing under this section shall be performed as medically appropriate and shall be made available in accordance with the provisions of this section.
- (e) Costs of any medical examination undertaken pursuant to this section shall be funded through the department of health. If the court finds that the offender is able to reimburse the department, the offender shall reimburse the department for the costs of any medical examination under this section.
- (f) All results which are or can be derived from the examination ordered pursuant to this section are confidential, are not admissible as evidence and shall not be disclosed except:
  - i. As provided by this section;
  - ii. As provided by .S. 35-4-132(d);
  - iii. In a civil action for the negligent or intentional infliction of or exposure to a sexually transmitted disease; (iv) In a criminal prosecution for the criminal infliction of or exposure to a sexually transmitted disease; or
  - iv. As otherwise provided by law.
- (g) As used in this section:
  - i. "Convicted" includes pleas of guilty, nolo contendere and verdicts of guilty upon which a judgment of conviction may be rendered, and includes juvenile adjudications of delinquency if the adjudication is based upon an act which would constitute a sex offense. "Convicted" shall also include dispositions pursuant to .S. 7-13-301;
  - ii. "Sex offense" means sexual assault under .S. 6-2-302 through 6-2-304, attempted sexual assault, conspiracy to commit sexual assault, incest under .S. 6-4-402 or sexual abuse of a minor under .S. 6-2-314 through 6-2-317.